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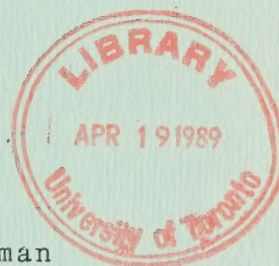


# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 88

DATE: Monday, April 10th, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman  
E. MARTEL, Member  
A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-200-387-8810

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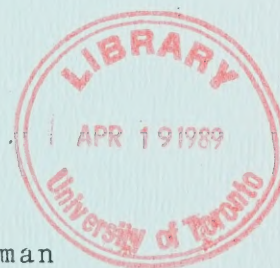


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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

-----  
Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Monday, April 10th,  
1989, commencing at 1:00 p.m.

-----  
VOLUME 88

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.)	ONTARIO FEDERATION OF
MR. B.R. ARMSTRONG	ANGLERS & HUNTERS
MR. G.L. FIRMAN	
MR. D. HUNTER	NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
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MR. Y. GERVAIS)	ONTARIO TRAPPERS
MR. R. BARNES )	ASSOCIATION
MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	





APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.) MR. B. BABCOCK )	RED LAKE-EAR FALLS JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT ) MR. J.S. TAYLOR)	NORTHWESTERN ONTARIO ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL) MR. S.M. MAKUCH )	GREAT LAKES FOREST
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
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MR. S.J. STEPINAC	MINISTRY OF NORTHERN DEVELOPMENT & MINES
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MR. P. ODORIZZI	BEARDMORE-LAKE NIPIGON WATCHDOG SOCIETY
MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>DAVID LOWELL EULER,</u> <u>PETER PHILLIP HYNARD,</u> <u>JOHN TRUMAN ALLIN,</u> <u>RICHARD BRUCE GREENDWOOD,</u> <u>CAMERON D. CLARK,</u> <u>GORDON C. OLDFORD, Resumed</u>	14693
Continued Cross-Examination by Ms. Swenarchuk	14693





I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
496	Article by Fraser, 1976 entitled: Viability of Black Spruce Seed in or on a Boreal Forest Seedbed.	14697
497	Article by Fraser, 1981 entitled: Operational Direct Seeding Trials with Black Spruce in Upland Cut-overs.	14698
498	Article by A. Groot entitled: Stand and Site Conditions Associated with Abundance of Black Spruce Advanced Growth in Northern Clay Section of Ontario.	14698
499	Paper prepared by Dr. Euler, 1977.	14768
500	Article entitled: Raptor Nest Survey on Crown Lands in the Lanark Crown Management Unit of Carleton Place District, by Campbell and Huizer, produced by MNR, June 3, 1988.	14784
501	Paper entitled: The Habitat Needs of Furbearers in Relation to Logging in Boreal Ontario, by I.D. Thompson, Research Scientist, Newfoundland Forestry Centre.	14792





1 ---Upon commencing at 1:00 p.m.

2 THE CHAIRMAN: Thanks. Be seated.

3 MS. SWENARCHUK: Welcome to the  
4 afternoon.

5 THE CHAIRMAN: The witnesses can come out  
6 of their hideaway.

7 Ms. Swenarchuk?

8 MS. SWENARCHUK: I sort of assume else  
9 has something to start with, but I guess not.

10 DAVID LOWELL EULER,  
11 PETER PHILLIP HYNARD,  
12 JOHN TRUMAN ALLIN,  
13 RICHARD BRUCE GREENWOOD,  
CAMERON D. CLARK,  
GORDON C. OLDFORD, Resumed

14 CONTINUED CROSS-EXAMINATION BY MS. SWENARCHUK:

15 Q. Mr. Hynard, can we turn to page 80 of  
16 Volume I, please.

17 MR. HYNARD: A. Page 80.

18 Q. This brings us back to the question  
19 we finished with last week discussing and that is the  
20 line at the top of the page that:

21 "Forest managers often prescribe  
22 clearcutting and artificial regeneration  
23 to increase the component of black  
24 spruce."

25 MS. SWENARCHUK: And then, Mr. Chairman,

1 if you will look at our Interrogatory No. 11, which is  
2 in package Exhibit 491, you will see that we asked for  
3 studies supporting the view that these methods have  
4 succeeded in increasing the component in black spruce.

5 And the reply indicated:

6 "Studies that indicate the lack of  
7 success of natural regeneration on  
8 spruce upland sites along with the  
9 success of artificial regeneration on  
10 these sites."

11 And four sources are listed. The last  
12 one is the Silvicultural Guide for Spruce, which I  
13 don't propose to deal with.

14 Q. First of all, Mr. Hynard, you  
15 indicated last week that you did not write the response  
16 to this question.

17 MR. HYNARD: A. That's right.

18 Q. So I guess my first question would be  
19 to you: What sources did you have in mind as  
20 supporting the proposition that artificial regeneration  
21 has been successful in increasing the component of  
22 black spruce?

23 A. If I can just refer back to page 79  
24 to put it in its context, and the context is that  
25 problems and pests associated with the production of



1 any commercial timber species will very much affect the  
2 choice of the species and, therefore, the choice of the  
3 harvest system.

4 And this further statement is an example  
5 of that. That example is that balsam fir, as a  
6 commercial species, is one plagued with several  
7 difficulties, one of those is longevity, another is  
8 storability on the stump, low market demand and, of  
9 course, susceptibility to spruce budworm.

10 The fact that there is a tendency on  
11 upland sites -- deep mineral soil upland sites in  
12 boreal mixed woods for the natural regeneration of  
13 balsam fir by advanced growth, is a fact that is well  
14 known to foresters across Ontario. That fact is stated  
15 in the silvicultural guide.

16 Q. I am not arguing with the relevance  
17 of the Silvicultural Guide, Mr. Hynard. That is the  
18 source that you had in mind then?

19 A. No, I was just stating a fact, a  
20 well-known fact to foresters in Ontario that there is,  
21 on certain specific site types, a natural -- and quite  
22 a wide variety of site types a natural tendency of  
23 succession to balsam fir from advanced growth and this  
24 is true following cutting as well, whether the cutting  
25 is clearcutting or especially following partial

1 cutting. That was just a well-known fact on which I  
2 did not use any studies.

3 The fact that clearcutting followed by  
4 planting of black spruce will increase the component of  
5 black spruce over that which would have otherwise  
6 existed had there been no clearcutting and planting of  
7 black spruce to me is an obvious one. In fact, it is  
8 so obvious that I doubt whether studies have been  
9 carried out to prove that fact.

10 Q. Would the SOARS Report indicate that  
11 fact, the regeneration surveys?

12 A. I can't answer that myself, I am not  
13 familiar with the SOARS Report, I haven't gone through  
14 it all. It may. I can't answer that, though.

15 Q. I was going to go through the three  
16 other studies that are listed on the page, but you've  
17 had the chance to look at them in the last few days,  
18 and do you agree with me that they don't relate in fact  
19 to an increase in the component of black spruce, they  
20 don't support the proposition that was part of our  
21 question?

22 A. Yes, I would agree with you in the  
23 sense that they do not squarely address the question  
24 raised on page 79 and 80 and; that is, that  
25 clearcutting and artificial regeneration measures for

1 black spruce will increase the component of black  
2 spruce in the new stand over and above that which would  
3 have otherwise existed had those measures not been  
4 taken.

5 Q. And, in addition, the three sources  
6 listed -- well, perhaps we will just go through them.  
7 Fraser 1976. This is the Viability of Black Spruce  
8 Seed in or on a Boreal Forest Seedbed.

9 A. In going through these three studies  
10 with you, I would just like to remind you beforehand  
11 that I am not a spruce forester and I was not qualified  
12 as an expert witness in natural -- or artificial  
13 regeneration methods or field application of boreal  
14 silviculture, but I will do my best to answer your  
15 questions.

16 THE CHAIRMAN: Ms. Swenarchuk, we will  
17 put these in separately?

18 MS. SWENARCHUK: That's right.

19 THE CHAIRMAN: Very well. The 1976  
20 article will be entered as Exhibit 496.

21 ---EXHIBIT NO. 496: Article by Fraser, 1976 entitled:  
22 Viability of Black Spruce Seed in  
or on a Boreal Forest Seedbed.

23 MR. FREIDIN: The one by Fraser?

24 THE CHAIRMAN: The one by Fraser. And  
25 the one by Fraser, Operational Direct Seeding Trials



1 with Black Spruce in Upland Cut-overs, 1981, will go in  
2 as Exhibit 497.

3 ---EXHIBIT NO. 497: Article by Fraser, 1981, entitled:  
4 Operational Direct Seeding Trials  
5 with Black Spruce in Upland  
6 Cut-overs.

7 THE CHAIRMAN: And the article by an A.  
8 Groot, Stand and Site Conditions Associated with  
9 Abundance of Black Spruce Advanced Growth in Northern  
10 Clay Section of Ontario, will go in as Exhibit 498.

11 ---EXHIBIT NO. 498: Article by A. Groot entitled:  
12 Stand and Site Conditions  
13 Associated with Abundance of Black  
14 Spruce Advanced Growth in Northern  
15 Clay Section of Ontario.

16 MS. SWENARCHUK: So starting with the  
17 Groot article, Mr. Chairman, I have not copied the  
18 total articles except for the smallest one. I have the  
19 originals -- complete ones here and Mr. Hynard has or  
20 has seen the originals.

21 Q. So the Groot article, if we look at  
22 the conclusion section, basically talks about:

23 "This study helps to define site and  
24 stand conditions better where black  
25 spruce advanced growth is abundant.  
Black spruce advanced growth is most  
abundant on the on the wettest, most  
nutritionally and forestically poor site

1 types and becomes less abundant as sites  
2 become drier and richer. "

3 So that is what that article about?

4 MR. HYNARD: A. That's right.

5 Q. And the Fraser article Viability of  
6 Black Spruce Seed - this is I believe 1976, yes - it is  
7 a description of the viability of naturally or  
8 artificially sown black spruce seed subjected to  
9 natural storage; agreed?

10 A. Yes, it is.

11 Q. And the other Fraser article, 1981,  
12 as we see in the first paragraph of the discussion in  
13 conclusions page 29 is:

14 "A report on the end results of direct  
15 seeding trials, the preliminary results  
16 of which were repeated previously. Since  
17 none of the seeded areas was desirably  
18 stocked, 60 per cent, to black spruce  
19 even one year after seeding, and none was  
20 even marginally stocked, 40 to 60 per  
21 cent, two years after seeding, these  
22 trials must be considered unconditional  
23 failures in terms of regenerating the  
24 areas to current standards."

25 And then he goes on to draw some, he

1 says, useful inferences. So none of these three  
2 articles would support the proposition that artificial  
3 regeneration of black spruce has been helpful in  
4 increasing its component in a stand; agreed?

5 A. I agree.

6 Q. And I just want to be clear on your  
7 position here. You didn't have in mind other sources  
8 when you made that statement, you were stating what you  
9 think is or what you consider to be an accepted fact?

10 A. That's correct.

11 Q. Fair enough. Did you respond to any  
12 of the interrogatories directed towards your written  
13 materials?

14 A. Yes, I did.

15 Q. Could I ask why you didn't respond to  
16 this one?

17 A. Oh, you could ask but I don't --

18 Q. What is the process by which someone  
19 else was responding to it? You're not aware of that?

20 A. I'm not aware of all the details on  
21 how interrogatories were directed to the various  
22 witnesses for answering and occasionally to  
23 none-witnesses also.

24 It was part of the management team that  
25 made those decisions about who would answer which



1 questions. They weren't all necessarily answered by  
2 the witness for that particular page.

3 Q. Could you look at page 89 of Volume  
4 I, please.

5 A. Yes, I have the version before its  
6 amendment.

7 Q. Right. And I don't have Exhibit 435  
8 with me. The amendments pertained to the actual  
9 figures of hectares cut; did they not?

10 A. Yes, I believe the one correction was  
11 on the area clearcut.

12 Q. Right. And that I think went to  
13 what, 179,000?

14 THE CHAIRMAN: 175,983 I have, giving a  
15 total at the bottom of 201,869.

16 MS. SWENARCHUK: Q. Now, the explanatory  
17 note indicates that clearcuts includes both clearcuts  
18 intended for artificial regeneration and those to be  
19 left for natural regeneration.

20 Can you tell us, of the 175,983 hectares  
21 clearcut, what number or how many hectares of that was  
22 left for artificial regeneration and, if you don't have  
23 the number available perhaps, Mr. Freidin, we could  
24 have that?

25 MR. HYNARD: A. Your question is of the

1 175,983 how many hectares were left in that year for  
2 natural regeneration?

3 Q. That's right.

4 A. We can -- we don't keep our records  
5 exactly in that fashion, so I would like to explain how  
6 the number would be derived.

7 The area cut -- the figures for the area  
8 cut in any one year are reported in the annual report  
9 for each management unit and then aggregated by region  
10 and provincially, and they would be for the cuts that  
11 were made actually in the previous year.

12 There is about -- there is a one-year  
13 time lag from when the area is cut to when it is  
14 reported. The reason for that is, is it takes some --  
15 it takes supplementary aerial photography to do some of  
16 the mapping of the area and, therefore, to record it.

17 The area that is treated by artificial  
18 regeneration that appears in those same records would  
19 be the area that was actually treated in that  
20 particular year. So it is not going to be possible to  
21 relate actual hectares to actual hectares. The figure  
22 could be obtained, however, by inference and that  
23 inference would be to -- I am talking while I am  
24 thinking, it is a bad practice I know.

25 Q. It is better than not thinking,

1       however go ahead.

2                   A. It would be possible to obtain that  
3       figure, although it would not relate directly to the  
4       same hectares.

5                   Q. Perhaps when you obtain it we can  
6       deal with whatever differences exist.

7                   A. Yes. And you may want to deal with  
8       that actually in Panel 11 which is the regeneration  
9       panel.

10                  Q. I probably will, but we would like  
11       the number. Okay. One last question for Mr.  
12       Greenwood.

13                  Did I understand you correctly last week  
14       to say that an FMA could be cancelled for cutting  
15       without a cutting licence?

16                  MR. GREENWOOD: A. I don't remember  
17       giving that evidence, no. I was reading from the Crown  
18       Timber Act. I just can't remember off the top of my  
19       head exactly which clauses I referred to.

20                  Q. Well, as I look at the Act, Section  
21       14 is the section that indicates that no licensee shall  
22       commence cutting operations in any year until the  
23       Minister has approved in writing the areas in which the  
24       operations are to be carried out in that year.

25                  So that is the section that specifies a

1 cutting licence is necessary. Do you agree with that,  
2 Section 14(1)?

3 A. Yes, that is what Section 14 says.

4 Q. And then Section 48, subsection 1A  
5 indicates that the penalty for commencing cutting  
6 operations without approval of the Minister under  
7 Section 14 is up to five times the amount of stumpage  
8 that would otherwise be paid.

9 And I don't see any indication in the Act  
10 other than that, that a licence could be cancelled for  
11 that kind of cutting or going further than that an FMA  
12 can be cancelled for?

13 A. If I remember correctly the  
14 discussion about an FMA being cancelled came from some  
15 of the articles within the FMA agreement that Mr.  
16 Oldford was reading.

17 Q. Well, my question is - and do you  
18 agree with me - that a licence, including an FMA, if  
19 you call it that, cannot be cancelled for an infraction  
20 of Section 14?

21 A. I can't answer that.

22 Q. Dr. Euler, some questions for you  
23 now.

24 Before we talk about wildlife management  
25 in general, I would just like to set a context. Do you



1 agree with Mr. McNichol who testified before the Board  
2 in November that there is no province-wide wildlife  
3 policy in Ontario?

4 DR. EULER: A. Yes, I agree.

5 Q. And there is no province-wide  
6 non-game policy in Ontario?

7 A. That's correct. Can you hear me?

8 Q. I don't think the mike is on.

9 And when asked what policy directs you in  
10 your management of wildlife, he indicated:

11 "We do have policy direction vis-a-vis  
12 moose. That policy direction, albeit not  
13 a formal policy document, if you will, is  
14 evidenced through the direction which is  
15 the intent of the policy, the direction  
16 that is given through Strategic Land Use  
17 Plans and District Land Use Guidelines  
18 documents with regard to what we will do  
19 with regard to moose."

20 So I take it he was indicating that the  
21 biologists are directed basically by the Land Use  
22 Guidelines and the Strategic Land Use Plans and  
23 wildlife targets?

24 A. Yes.

25 Q. Okay.

1 MR. FREIDIN: Mr. McNicol, later in his  
2 evidence clarified that evidence and indicated that  
3 there indeed is a policy in relation to moose  
4 management, it has been marked Exhibit No. 30 -- it was  
5 marked, Moose Policy of December 15th, 1980.

6 MS. SWENARCHUK: That was my next point,  
7 Mr. Freidin.

8 Q. Now, can we expect to see the  
9 development of a comprehensive wildlife policy within  
10 the Ministry?

11 A. Yes. That is a process that is under  
12 way right now. There is a process by which a select  
13 group of people from the public are meeting and they  
14 will be presenting suggestions for a comprehensive  
15 wildlife policy that the Minister can consider.

16 Q. And when do you expect that to  
17 happen?

18 A. Well, the committee is being  
19 formulated right now, people are being invited to be  
20 members of that committee now.

21 Q. So it hasn't started work yet?

22 A. It has not started working yet and  
23 the end date is unknown.

24 MS. SWENARCHUK: Perhaps, Mr. Freidin, we  
25 could have some information provided to us when that

1 committee is struck and time lines are established?

2 Mr. Freidin?

3 MR. FREIDIN: What exactly is it that you  
4 want again, please?

5 MS. SWENARCHUK: Well, Mr. Chairman, if  
6 during the term of this hearing something as important  
7 as a comprehensive wildlife policy is developed in the  
8 Ministry, I think it is essential that in our  
9 evaluation of that question we know what the policy is  
10 going to be.

11 So I am simply asking, Mr. Freidin, that  
12 you let us know when the committee has been constituted  
13 and what kind of time lines are being established for  
14 the development of policy?

15 MR. FREIDIN: Yes.

16 THE CHAIRMAN: Ms. Swenarchuk, I think  
17 the Board has earlier directed the proponent that if  
18 anything develops during the course of this hearing  
19 that is relevant to this hearing, and that would  
20 certainly include any new legislation, policies,  
21 directives, et cetera, that it be brought to the  
22 attention of the Board and the other parties  
23 immediately.

24 MS. SWENARCHUK: Q. Now, also in the  
25 setting a context, Dr. Euler, would you please turn to

1 the ESSA Report.

2 DR. EULER: A. I don't have a copy with  
3 me right here.

4 Q. Exhibit 381.

5 A. Yes.

6 Q. And you will recall that I - perhaps  
7 you won't recall - that I reviewed certain sections of  
8 this with Dr. Allin with regard to fisheries  
9 guidelines.

10 A. Yes, I recall.

11 Q. And these are the sections in the  
12 executive summary of the report which are not  
13 numbered -- which the pages are not numbered under  
14 Project Conclusions and Recommendations in General,  
15 Strategy for Monitoring.

16 A. Yes.

17 Q. And on the second -- on the first  
18 paragraph under the heading General Strategy for  
19 Monitoring--

20 A. Yes.

21 Q. --talking about the guidelines which  
22 the report studied...

23 THE CHAIRMAN: Ms. Swenarchuk, would it  
24 be easier for everyone if we just numbered this  
25 executive summary?



1 MS. SWENARCHUK: Sure.

2 THE CHAIRMAN: Starting with the first  
3 page entitled Executive Summary.

4 MS. SWENARCHUK: Introduction.

5 THE CHAIRMAN: And I think going to the  
6 page immediately before acknowledgements.

7 MS. BLASTORAH: Mr. Chairman, it would  
8 also be very helpful if Ms. Swenarchuk could let us  
9 know in advance which exhibits she is going to be  
10 referring to so we could have extra copies available  
11 for the witnesses.

12 THE CHAIRMAN: Very well. I think that  
13 would be a good idea.

14 MS. SWENARCHUK: And, as I have it, we're  
15 on page 6, Mr. Chairman.

16 THE CHAIRMAN: That's right.

17 MS. SWENARCHUK: Q. So, again, reviewing  
18 this paragraph, we see that:

19 "To say that the guidelines are designed  
20 to protect the resource value population  
21 from timber management activities implies  
22 that the relationship between habitat and  
23 levels of different resource values is  
24 known. Workshop discussions indicated,  
25 however, that this relationship is not

1 well understood."

2 And do you agree with that with relation  
3 to wildlife habitat and wildlife populations?

4 DR. EULER: A. Yes, basically, mm-hmm,  
5 and particularly -- it isn't that we don't know  
6 anything about it, it's that it is not well understood.

7 Q. And then the last -- the sentence  
8 beginning on that page:

9 "Where possible, effects monitoring  
10 studies must be conducted at both the  
11 habitat and population levels to maximize  
12 the improvement in understanding of  
13 timber management effects on resource  
14 values and the effectiveness of the  
15 resource protection guidelines."

16 Now, would you agree with me that to the  
17 extent to which the relationship between moose habitat  
18 as made available under the guidelines and moose  
19 population is uncertain, the relationship between  
20 habitat provided under the moose guidelines and  
21 populations of other species is that much more  
22 uncertain?

23 A. Well, I wouldn't say it was that much  
24 more uncertain. It is a question of degrees of  
25 uncertainty here.

1 Q. Right.

2 A. It is very --

3 Q. Isn't it another leap?

4 A. Well, I wouldn't -- there is  
5 certainly -- there is a substantial amount of  
6 uncertainty here and whether -- it is really hard for  
7 me to say whether it is more for moose or less for  
8 moose, or more for others, less for others.

9 Q. Right.

10 A. There is clearly uncertainty here and  
11 I don't know if it is more for moose or less for moose.

12 Q. And that degree of uncertainty  
13 certainty pertains then to conclusions to be drawn  
14 about the degree to which the moose guidelines will  
15 provide habitat for all other species?

16 A. Yes. There is definitely a degree of  
17 uncertainty.

18 Q. Now, with regard to the genesis of  
19 the featured species approach, Dr. Euler, I believe you  
20 indicated last week that - and this is at page 13922 in  
21 the transcript - that in picking moose and deer to  
22 feature:

23 . "...I want to make it clear that they  
24 were featured because they were Canadian  
25 animals, popular game animals and

1 relatively a great amount was known about  
2 them. We did not pick them because of  
3 the spinoff benefits that would accrue."

4 A. That's correct, yes.

5 Q. So the theory was not designed  
6 initially to provide habitat for all species?

7 A. That's correct.

8 Q. Now, would you look at our  
9 Interrogatory 27(c).

10 MS. SWENARCHUK: Mr. Chairman, I'm not  
11 sure whether this was attached to the previous package  
12 or not.

13 MR. FREIDIN: 27(c) was marked Exhibit  
14 490.

15 THE CHAIRMAN: Is it the same as the  
16 short question in Question 27 of 481?

17 MS. SWENARCHUK: I didn't hear your  
18 question.

19 THE CHAIRMAN: 491 rather. Is 27(c) the  
20 short question --

21 MS. SWENARCHUK: It is a supplementary  
22 answer received February 8th, 1989. Yes, it is Exhibit  
23 490, Mr. Chairman.

24 THE CHAIRMAN: Thank you.

25 MR. FREIDIN: Do you have that, Dr.



1 Euler?

2 DR. EULER: I'm sorry, I am a little  
3 confused as to just where we are. I have 27(c), is  
4 that correct, of Exhibit 491?

5 MS. SWENARCHUK: Q. I'm not sure whether  
6 it was part of that package or separate. I have extra  
7 copies if necessary.

8 DR. EULER: A. Oh. Oh, okay, yes, thank  
9 you. I have it here now.

10 THE CHAIRMAN: Can I have an extra one as  
11 well, I don't seem to have that separate exhibit.

12 MR. HUFF: (handed)

13 THE CHAIRMAN: Thank you.

14 MS. SWENARCHUK: Q. And also keep in --  
15 also look at, please, Question No. 27 which was part of  
16 Exhibit 491. Now --

17 MR. FREIDIN: Could the witness perhaps  
18 just be given a chance even to look at those  
19 interrogatories before you start to question him on  
20 them.

21 MS. SWENARCHUK: Sure.

22 MR. FREIDIN: Dr. Euler, if you don't  
23 have something please ask.

24 DR. EULER: Yes. I think I have it here.  
25 I think it is all here. Thank you.

1 MS. SWENARCHUK: Q. All right. So if we  
2 look at our Interrogatory Question No. 27, paragraph  
3 (a) was a request that you provide all available  
4 literature and internal MNR reports on the featured  
5 species approach to management. And the response was  
6 that you would address the subject matter.

7 I take it then that there aren't reports .  
8 in the literature or within MNR internal documents on  
9 the featured species approach to management; is that  
10 true?

11 DR. EULER: A. Well, no, the paper that  
12 we produced and --

13 Q. Aside from the paper, yes.

14 A. There are no other MNR internal  
15 documents that I am aware of on that subject. There  
16 are some documents on the concept of featured species  
17 management in the general literature, just the  
18 scientific literature.

19 MS. SWENARCHUK: Well, Mr. Freidin, why  
20 weren't we provided with them? That was specifically  
21 what the question asked for.

22 MR. FREIDIN: Well, Mr. Chairman, I think  
23 to the extent that the -- I think the interrogatory has  
24 been accurately answered, I mean, the paper we produced  
25 as part of the evidence which is relied upon by the

1 proponent, I think the papers rely on a considerable  
2 amount of documentation and articles cited in Baker's  
3 paper.

4 The Ministry is willing to rely on the  
5 evidence as filed. We don't believe it is appropriate  
6 that further documentation be provided at this time.  
7 If Ms. Swenarchuk believes that somehow the  
8 documentation is improper, then I would suggest that  
9 that be a subject matter for her witnesses.

10 And, again, the interrogatories were  
11 answered properly.

12 THE CHAIRMAN: Excuse us a moment.

13 Ms. Swenarchuk, this type of question may  
14 come up in the future so the Board just spent a couple  
15 of minutes discussing it, and I think it's the Board's  
16 view that where the Ministry or where any party is  
17 relying on certain material in the course of presenting  
18 their evidence they should be obliged to provide the  
19 literature citations upon which they are relying upon  
20 to make their case.

21 Where they are aware of other scientific  
22 articles through the witnesses that are testifying,  
23 they might provide those as well. But to compel a  
24 party to go out and do an entire scientific literature  
25 search on a given topic, the Board feels is

1 unreasonable.

2 That can be flipped around and applied to  
3 any party here and if any of the parties, including  
4 those in opposition, are also going to rely on certain  
5 material in the course of their reports, then the  
6 Ministry would equally be entitled to have those  
7 parties go out and conduct an entire literature search,  
8 and when we were dealing with scientific literature, it  
9 might be quite time consuming and quite extensive.

10 That, in our view, is more appropriate  
11 for a party who wishes to contest a position taken by  
12 one party to find that literature on their own unless,  
13 of course, it's something that Dr. Euler can put his  
14 hands on quickly and has no objection to providing.

15 I think what we are saying, Dr. Euler,  
16 is: We certainly expect the citations to be given with  
17 respect to reports completed by you and cited in your  
18 report - and, of course, they were available at that  
19 point anyways.

20 But I don't think the Board is going to  
21 order this proponent, nor any other party, to go out  
22 and do an entire literature search on a given topic.

23 MS. SWENARCHUK: Mr. Chairman, the reason  
24 for the question was not all a fishing expedition.  
25 This goes back to the problem we had last week that has



1 to do with potential versus actual effects, in a  
2 different format and; that is, that the featured  
3 species approach has been presented to the Board as a  
4 theory of wildlife management and I might say that it's  
5 my view that the version that we've heard from Dr.  
6 Euler is a little different than what we've heard from  
7 Dr. McNicol, these questions were prepared at that  
8 time, and the purpose of the interrogatory was exactly  
9 to assess whether this is a widely known and accepted  
10 theory of wildlife management or not in the view of our  
11 reviewers it is not.

12 THE CHAIRMAN: And if it not, then when  
13 it comes time to call your case, you can put your  
14 witnesses in the box and say why not.

15 MS. SWENARCHUK: We have proceeded on the  
16 basis that it doesn't appear in the literature since  
17 the response to the interrogatory listed no literary  
18 references. If it's widely accepted or widely known, I  
19 would like Dr. Euler to tell us that.

20 DR. EULER: Well, I wouldn't characterize  
21 it as widely used. It's ours and we use it and there  
22 are probably not a lot of other jurisdictions that use  
23 it. If that's the point you are trying to make, we can  
24 take care of that fairly quickly.

25 Most jurisdictions would use the

1 indicator approach, I think. If you were going to list  
2 what is used, the indicator approach is a more common  
3 approach than the one we use or the indicator guild  
4 approach.

5 MS. SWENARCHUK: Q. So, again, trying to  
6 focus on this connection between habitat creation and  
7 populations, I take it there aren't reports that would  
8 specifically indicate that the use of this theory will  
9 allow the attainment of the MNR objective of viable  
10 population levels?

11 DR. EULER: A. I'm trying to think how  
12 to answer that question. I think you have to judge us  
13 based on how well we attain our objectives, not so much  
14 on our "theory of management".

15 The featured species approach is simply a  
16 tool and it has advantages and disadvantages and I  
17 think, if you will recall from the evidence that I  
18 presented and the slide that I showed that's in as an  
19 exhibit, the continuum, now, as far as I know those are  
20 all of the major tools available to a wildlife manager.  
21 I don't know of any tool available that isn't  
22 represented on that continuum.

23 So we have picked the featured species  
24 approach and it has both advantages and disadvantages  
25 and that's what we are using to try to attain our

1 objectives and I think we should be judged on whether  
2 or not we are attaining them.

3 Now, I am not sure I answered your  
4 question, but I must admit I wasn't quite sure what  
5 your question was.

6 Q. My question was whether you can  
7 direct us to reports or studies in the literature which  
8 would support the proposition that the featured species  
9 approach will be successful in attaining viable  
10 populations of all wildlife species?

11 A. Oh, no, no, there is nothing in the  
12 literature that I know of.

13 Q. Now, with regard to objectives, you  
14 agree that there are no targets for species other than  
15 moose, deer, bear and some furbearers?

16 A. There are no numerical targets,  
17 that's right.

18 Q. Right. Now, turning for just a  
19 moment to the question of inventories and population  
20 data, could you list all the species for which MNR has,  
21 at this time comprehensive or, in your view, complete  
22 population data?

23 A. There are very few. Moose is the  
24 best example of a species for which we have complete  
25 inventory data.

1                   In some areas we would have complete  
2           inventory data for deer and I - to the best of my  
3           knowledge, thinking about it just fairly quickly, I  
4           can't think of any other species that we have complete  
5           inventory data for.

6                   Q.   Now, in both Volume II of Panel 10  
7           witness statement and in the paper that was produced  
8           subsequently, Exhibit 433, you have -- and in your  
9           testimony, you have referred reputedly to monitoring  
10          and the need for monitoring.

11                  A.   That's right, yes.

12                  Q.   Now, can you specify what monitoring  
13          the Ministry now does for what species and how it's  
14          done?

15                  A.   Yes.   And in answering that question  
16          we need to think about the projects that the Ministry  
17          is a cooperator in as well as the actual doing all of  
18          the actual work themselves.

19                  Q.   Right.

20                  A.   For example, in moose, the Ministry  
21          does all the inventories for moose themselves using an  
22          airplane, they do aerial surveys, and then we do  
23          surveys for deer in some areas and some conditions  
24          where it's needed, not everywhere.

25                  The Ministry participates in something



1 called a mid-winter water fowl survey which is a survey  
2 of water fowl, generally birds that are in the duck and  
3 geese group. A mid-winter eagle survey --

4 Q. Excuse me, Dr. Euler. And exactly  
5 what type of information do you obtain from the  
6 mid-winter water fowl survey?

7 A. Well, those are index counts where  
8 observers go out at a certain time of the winter and  
9 just simply count all the water fowl that are present  
10 in certain areas by doing the same then every year,  
11 those inventories are comparable. They are indexes,  
12 they are not complete monitoring counts of populations.

13 Q. And can you tell us approximately how  
14 many species are involved in that?

15 A. Well, perhaps a dozen.

16 Q. And that doesn't occur right across  
17 the area of the undertaking; does it?

18 A. No, no. No, this occurs down in  
19 the - generally where the birds are wintering over,  
20 generally the Great Lakes area. Then there is the  
21 mid-winter eagle survey that is conducted at the same  
22 time. Then --

23 Q. That's the same thing; isn't it, an  
24 index count?

25 A. Yes, that's an index count. The only

1 species that we try do a complete count for are moose.  
2 Everything else is an index because it's just  
3 impossible to count the others and so you can only do  
4 indexes.

5 Now -- okay. Now then, the Ministry is a  
6 cooperator in the count -- the hawk count at Beamer  
7 Point and down at Hawk Cliff on Lake Erie where, every  
8 year, hawks are counted as they come back in the spring  
9 and as they go south in the fall and that too is an  
10 index.

11 Q. So there would be a number of species  
12 of hawk there; would there?

13 A. That's right.

14 Q. Approximately how many?

15 A. Well, 12 maybe. Now, the Ministry  
16 doesn't do that all themselves, that's a cooperative  
17 item with naturalists.

18 Q. Right. And are those locations  
19 outside the area of the undertaking?

20 A. Yes, they are. But the hawks -- some  
21 of the hawks at least nest in the area of the  
22 undertaking and then they go south for the winter.

23 Q. Right.

24 A. And it's just -- the only reason you  
25 count them there is it's a convenient place, you see

1       them going by.

2                   And then we cooperate with Long Point in  
3       assessing data on some species of songbirds, again, as  
4       indexes to their abundance. And, again, I have got to  
5       estimate the number of species but perhaps ten species  
6       there.

7                   Then we have been cooperating and helping  
8       the people who do the herpetofaunal survey which is  
9       much like the breeding bird atlas. We have been giving  
10      them some money to help support them in it and no  
11      Ministry staff actually go out and count the  
12      herpetofauna but we're working with them and we've  
13      contributed to help.

14                  And the Ministry was a contributor to the  
15      breeding bird atlas.

16                  Q. Right. Excuse me, on the  
17      herpetofaunal species, approximately how many species  
18      again?

19                  A. Well, perhaps again let's say around  
20      10.

21                  Q. That's a new initiative; is it not?

22                  A. Yes, that's a new initiative, right.

23                  Q. It's one on which you don't have data  
24      at this time?

25                  A. That's right, we have no history of

1 data on those species, it's new.

2 Q. Okay. And then the last one, sorry,  
3 that you mentioned?

4 A. I talked about the Long Point Bird  
5 Observatory where the Ministry again has cooperated  
6 with naturalists to achieve some index counts of some  
7 of the songbird that nest in the area of the  
8 undertaking and, again, about 10 or 12 species there.

9 Q. And that's the complete list; is it?

10 A. Well, I think so. Just let me --

11 Q. Sure, take your time.

12 A. --review it for a second and see if  
13 there is something else that I missed.

14 These surveys take place in such a  
15 variety of locations, with such a variety of people  
16 that it's -- and there is no comprehensive  
17 encyclopaedia of them to the best of my knowledge  
18 listing them all; they exist in various ways and in  
19 various places.

20 Well, that certainly is the bulk of it,  
21 Ms. Swenarchuk. I may have left one or two out, but  
22 that's certainly the bulk of it.

23 Q. Is the Long Point cooperation a new  
24 program as well?

25 A. Relatively new. We do support Long



1 Point with some grants. Many of the work is done by  
2 volunteers and the data analysis that I showed in my  
3 evidence is from Long Point where one of the Ministry  
4 staff people then analysed the data from Long Point and  
5 I showed some graphs, I think you may recall, of those  
6 warblers.

7 Q. So then with the exception of moose  
8 and deer and these other species, most of which are  
9 birds, the Ministry does not have population data on  
10 other species?

11 A. Yes, that's correct.

12 THE CHAIRMAN: Dr. Euler, would there not  
13 be population data available with respect to endangered  
14 species?

15 DR. EULER: Well, in some cases there  
16 are, yes, and in other cases there aren't. See, it  
17 depends so much by what you mean by population data.

18 There are, like our bald eagle survey in  
19 northwestern Ontario, every year the eagle population  
20 is surveyed and we get indexes to their population. So  
21 you have a sense of whether the population is going up  
22 or going down, although you don't have a complete  
23 count.

24 Then you have the breeding bird atlas  
25 which is a record really of distribution of the animals

1 not a record of their population numbers, and yet that  
2 has value because you want to know where the  
3 distribution of the animals are.

4 So these are very difficult concepts to  
5 answer concisely because they are really hazy.

6 MS. SWENARCHUK: Q. Can we turn to page  
7 519 in Volume II now, please. That's Exhibit 416B.

8 Now, the first line of the page indicates  
9 that:

10 "The Ministry is committed to maintaining  
11 all species of wildlife at levels  
12 necessary to sustain viable populations  
13 and meet wildlife management objectives.  
14 Inherent in this objective is the need  
15 to ensure that none becomes threatened or  
16 endangered by human activities including  
17 timber management."

18 Now, Dr. Euler, without population data  
19 on that large number of species that didn't figure in  
20 the list you just gave us, how can the Ministry be  
21 assured that viable populations of all species are  
22 being maintained?

23 DR. EULER: A. Well, you certainly need  
24 some kind of population data to be assured of knowing  
25 that, there is no question about that.

1                   On the other than, some of the data we  
2                   have would lend itself to the interpretation that the  
3                   population is not threatened or endangered, as such  
4                   breeding bird atlas for example, where a species -- you  
5                   don't know what the population level is, but you know  
6                   it's widely distributed, every atlas are sawed in the  
7                   square that they were in. That would lead you to  
8                   conclude that it probably was not in any immediate  
9                   danger.

10                  But I don't want to deny your point, we  
11                  do need to monitor the populations at least at an index  
12                  level.

13                  Q. And does this statement indicate that  
14                  the Ministry would accept a drastic reduction in  
15                  population of a species as long as the remaining  
16                  population remained viable?

17                  A. Well, in theory I suppose it does,  
18                  that's right. Now, I don't think that would be  
19                  acceptable in the real world, but you could I suppose  
20                  say that in sort of a hypothetical way.

21                  Q. What's your view of that as a senior  
22                  and wildlife biologist within the Ministry? Do you  
23                  accept the acceptability of drastic population  
24                  reductions?

25                  A. Well, no, I don't and I don't think

1 many other biologists would. I think we would like to  
2 see the populations maintained at levels reasonably  
3 close to where they are now, accepting the fact that  
4 sometimes reductions are going to occur and have to be  
5 a part of the fact that we manage the forest.

6 Q. Perhaps you could define exactly what  
7 you mean by a viable population?

8 A. That's right. We had -- we talked  
9 about that and we had an exhibit in which we  
10 illustrated that point. I just don't remember the  
11 exact number, but we had a graph -- we drew a graph  
12 and --

13 Q. Which took account of fluctuations.

14 A. That's right.

15 Q. Yes.

16 A. And what we were saying is, is that  
17 the long-term level of the population, the long-term  
18 average should not diminish.

19 Q. The long-term average.

20 A. That's right. You can accept a  
21 reduction in a population in any one year because  
22 populations naturally fluctuate. And so once you have  
23 established a long-term average, such as we showed in  
24 some of those graphs on the hawks for example, when  
25 they begin to dip below that long-term average then you



1 have a problem.

2 Q. Could we look at Exhibit 433 now  
3 which is the February paper by you and, is it Dr.  
4 baker?

5 A. Yes, yes.

6 Q. And it's page 2 of the paper, the  
7 second paragraph under Assumptions of Featured Species  
8 Management.

9 A. Yes.

10 Q. We will just wait for the Board.

11 MR. MARTEL: What page Ms. Swenarchuk?

12 MS. SWENARCHUK: Page 2.

13 Q. Now, the last line of that paragraph,  
14 Dr. Euler:

15 "Although some wildlife may suffer  
16 negative impacts in a small area for a  
17 relatively short time, application of the  
18 guidelines over each forest management  
19 unit where moose or deer are common are a  
20 concern will ensure that wildlife  
21 populations are maintained and enhanced  
22 over all forest management units in the  
23 province."

24 Now, wouldn't you agree that you really  
25 can't be assured of that -- of those populations unless

1       you're doing cumulative monitoring of populations  
2       across the province to ensure that a local population  
3       decline is not in fact wider than just local?

4                     A.   Yes, that's correct.

5                     Q.   And at this time, I take it, you  
6       don't have--

7                     A.   We don't have a comprehensive --

8                     Q.   --the resources or facilities to do  
9       that?

10                    A.   Yes, that's correct.   You will note  
11       that this is under the section called Assumptions of  
12       Featured Species Management and one of the ideas that  
13       we talked about is that featured species management has  
14       pros and cons and this is one assumptiong that has some  
15       problems with it, and that's one of cons of the whole  
16       approach of featured species management.

17                    Each tool that you use, whatever it is,  
18       whether you use indicator species, indicate guilds or  
19       whatever you use, has both positive and negative  
20       effects and this is one of the negative effects of the  
21       featured species management approach.

22                    Q.   And it is a problem; isn't it, for  
23       Ministries -- for the Ministry in attempting to assure  
24       the Board that in fact these populations are being  
25       protected, you need this province-wide monitoring in

1 order to assure that; don't you?

2 A. That's right, you definitely do, yes.

3 Q. Now, at the top of that paragraph  
4 you've indicated that:

5 "The scale of change over time and space  
6 is also important. A 100 hectare  
7 clearcut in northern Ontario, for example  
8 may have a negative impact over one or  
9 two moose that live in that area in the  
10 short term."

11 What would be your opinion of the effect  
12 of a 2,000, 4,000 hectare clearcut; would it have a  
13 greater effect?

14 A. Than what, than the hundred acre one?

15 Q. Than the hundred hectare, yes.

16 A. Well, it might, you see. So it is so  
17 site-dependent, I hesitate to make a generalization  
18 because if it were in a jack pine stand on a big  
19 expansive sand flats, it might not have a terribly  
20 negative effect.

21 If it is in a rich boreal forest where  
22 the breeding is high, the diversity is high and so on,  
23 then it could have a substantial effect. It is just a  
24 very, very site-dependent question.

25 Q. Now, with regard to the last line on

1 that page, continuing to the next page:

2 "If, for example, 80 per cent of the  
3 habitat needs of the 309 terrestrial  
4 vertebrates in forest management units  
5 are taken care of by featured species  
6 management, the task of providing for the  
7 other 20 per cent is far more  
8 manageable."

9 Isn't it true that if the approach  
10 doesn't protect critical habitat for any particular  
11 species, that that species will not be protected?

12 A. Oh yes, of course. Yes. The  
13 featured species approach by itself can't do  
14 everything. It's just not in its nature to be able to  
15 get everything protected, that is why you have to take  
16 some other measures beyond featured species.

17 Featured species is the starting point,  
18 the basic tool and then it has to be supplemented.

19 Q. Now, if you go back to Interrogatory  
20 No. 27 and the chart that was prepared in response to  
21 these questions.

22 MS. SWENARCHUK: I'll just take a moment  
23 to explain some of this to the Board. We asked a  
24 number of questions with regard to reserves and  
25 wildlife management in general and the Ministry replied



1 to those questions in a tabular form.

2 Part of the -- included in the package of  
3 interrogatories that was filed with you are the notes  
4 on the attached table - it looks like this - and I  
5 think just since we are going to spend some time on  
6 this table, it would be useful.

7 You will notice that the third paragraph  
8 of the notes indicate the number of management units  
9 per district included in the calculation, and what I  
10 suggest is that we run across the chart and write at  
11 the top the number of management units concerned in  
12 each district.

13 If I can just read that off.

14 MRS. KOVEN: Are these wildlife  
15 management units.

16 MS. SWENARCHUK: No, these are forest --  
17 timber management units. I still would like to think  
18 they are forest management units.

19 Okay Dryden 1; Fort Frances 3; Kenora 2;  
20 Red Lake 3; Sioux Lookout 2; Nipigon 1; Terrace Bay 1;  
21 Thunder Bay 1; Cochrane 3; Hearst 2; Kapuskasing 1;  
22 Kirkland Lake 4; Timmins 2; Chapleau 3; Wawa 2; and  
23 Carleton Place 1.

24 DR. EULER: Could we just check your  
25 number for Thunder Bay there, please.

1 MS. SWENARCHUK: Q. What did I say?

2 DR. EULER: A. You said 1. I think it's

3 3.

4 Q. It's 3, did I not say 3, excuse me.

5 Now, Question 27(c) requested that all  
6 featured species be listed and the response to that  
7 indicated that the main featured species on a  
8 provincial level are moose or deer and, where  
9 determined to be appropriate at the local level, other  
10 species may be featured and those species can be seen  
11 in the attached chart.

12 So you will agree with me, first of all,  
13 Dr. Euler, that moose appear to be featured in all the  
14 management units except Nipigon and Carleton Place and  
15 deer appear in several of them. And the other -- only  
16 other featured species which appear on the chart are  
17 caribou in Terrace Bay and the pileated woodpecker,  
18 Goshawk in Carleton Place.

19 And if we read across the chart from left  
20 to right we see that in Carleton Place there are  
21 reserves as well for the red-shouldered hawk.

22 DR. EULER: A. Well, see, you have to  
23 understand what we mean by the featured species  
24 approach. Like, the presence of a zero under Nipigon  
25 doesn't mean moose are not featured there.

1 Q. Right. It means it is not featured  
2 in the timber management plan that is now being  
3 prepared?

4 A. No, no, it doesn't even mean that.  
5 It just means that there were no reserves for Nipigon  
6 and the reason there are no reserves for Nipigon is  
7 because of the forest management that went on in  
8 Nipigon, they didn't have to put any reserves on there,  
9 the cuts were of a location, size and shape that they  
10 didn't need to take any special efforts.

11 Moose are still featured there, moose are  
12 featured across all of northern Ontario because they  
13 are provincially featured, but what you do in any one  
14 plan may or may not involve moose. Okay.

15 And Nipigon is a good example of that,  
16 they just simply didn't have to make any special  
17 measures in that forest management plan to enhance the  
18 quality of moose habitat.

19 Q. Okay. Well, with respect to the  
20 other part of our question, Dr. Euler - that is  
21 Question (c) - asking that:

22 "List all featured species except moose  
23 and deer."

24 We asked for all MNR districts, we didn't  
25 get it for all MNR districts I don't think, but with

1       respect to that question listing featured species other  
2       than moose and deer, are you saying that the same  
3       proposition applies, that there are other featured  
4       species in these districts that are not listed on the  
5       chart because the answer to 27(c) says:

6                       "See the chart for the answer."

7                       And I am assuming - tell me if I'm  
8       correct - that aside from moose and deer, the other  
9       species listed on this chart are the only other species  
10      that were featured in the management units that I  
11      listed?

12                      A.   Well, almost.   See, moose and deer  
13      are provincially featured, that means right across the  
14      scope of the exercise they are provincially featured,  
15      and endangered species are provincially featured.   So  
16      bald eagles--

17                      Q.   Yes.

18                      A.   --are here for example.

19                      Well, the absence of something in those  
20      other boxes, say in Sioux Lookout, doesn't mean they  
21      weren't featured, it just means that in the particular  
22      plans at that time.   Okay.

23                      Now, the second concept in featured  
24      species is locally featured species, so those are  
25      species that are featured at the local level for a



1 variety of reasons. Now, in this particular case then  
2 we would see a couple of locally featured species;  
3 i.e., caribou in Terrace Bay, pileated woodpecker,  
4 Goshawk and so on in Carleton Place.

5 Now --

6 Q. I am simply trying to establish  
7 whether, in addition to species listed on this table  
8 for these management units, are you saying there are  
9 other locally featured species which aren't listed?

10 A. Well, I just don't know. I don't  
11 know of any.

12 Q. I' am prepared to take the chart as  
13 answering our question which would say that, for these  
14 management units, the locally featured species are the  
15 following. And --

16 A. Yes, and that's true. That's true.  
17 The pileated woodpecker is locally featured in Carleton  
18 Place and Goshawk and so on.

19 Yes, that is true, but we can't conclude  
20 that no other species is locally featured anywhere else  
21 because it could be, and it just didn't come under the  
22 aegis of this question. There aren't very many, if  
23 that is what you are trying to establish, there are  
24 few.

25 Q. And is it true that there are few in

1 the other management units that aren't covered by the  
2 chart as well?

3 A. Yes, that's true. There are not --  
4 there are not a lot of locally featured species, that's  
5 right.

6 Q. Fair enough.

7 A. Now, red-shouldered hawks are  
8 becoming more locally featured all the time because of  
9 the concern. So even since this chart was prepared, if  
10 we were to do this chart again right now you would  
11 probably see more red-shouldered hawks particularly if  
12 you got down into their range.

13 See, that is another problem, is none of  
14 these -- or very few of these districts are really in  
15 red-shouldered hawk range, so that is left out as well  
16 just because the hawks don't get into the boreal forest  
17 very much.

18 Q. Well, it was the Ministry which  
19 decided which districts to list and presumably this  
20 chart was prepared in the last couple of months.

21 Are you saying things have dramatically  
22 changed since then?

23 A. Well, let's say that there have been  
24 some things -- well, like the red-shouldered hawk is a  
25 good example that would be different if this data were

1 collected now just because of the pressing concern for  
2 red-shouldered hawks. Now, whether that is dramatic or  
3 not, I don't know.

4 Q. Dramatically different in the last  
5 couple of months?

6 A. Certainly different. I am not too  
7 sure if one would say dramatic.

8 Q. Can you suggest in what districts we  
9 would find it listed now?

10 A. The red-shouldered hawk?

11 Q. Yes.

12 A. Well, all of those districts in the  
13 lower part of the area of the undertaking in what we  
14 call our Algonquin Region, Bancroft, Algonquin,  
15 Bracebridge, Algonquin Park, Minden in that whole area.

16 MS. SWENARCHUK: Mr. Chairman, I assumed  
17 that the witness on the panel would be familiar with  
18 the chart and able to answer questions about it.

19 I am going to put some questions to him,  
20 if he is in fact not familiar with it and not able to  
21 answer, I will ask Mr. Freidin to simply provide the  
22 answer some other way.

23 THE CHAIRMAN: Did you have anything to  
24 do, Dr. Euler, with the preparation of this chart?

25 DR. EULER: No, not directly.

1 MR. FREIDIN: But he is the best person  
2 on this panel to ask questions about that chart.

3 DR. EULER: This chart was produced by a  
4 number of people and I have a file here that contains  
5 as much background as we have on it. So insofar as  
6 data exists, we have it and we will do our best to  
7 supply it.

8 MS. SWENARCHUK: Q. Well, turning away  
9 from the actual wildlife totals for a moment to the  
10 component of the chart - and this is the kind of  
11 question you may not be able to answer if you weren't  
12 involved in preparing it - on the bottom left-hand side  
13 we see a description of the totals.

14 DR. EULER: A. Yes.

15 Q. And there is a sub (a) (b) and (c).

16 A. Right.

17 Q. And (a) is the total hectares in  
18 reserves for fish, wildlife and plant values?

19 A. Yes.

20 Q. And (b) is total hectares in reserves  
21 for all purposes?

22 A. Yes.

23 Q. And I am wondering if you can tell me  
24 what other purposes are included in that total?

25 A. Well, it could be things such as



1 archaeological sites, for example or a tourist value,  
2 or something of that nature.

3 Maybe -- there may be something very,  
4 very special that is difficult to categorize. What if  
5 there was a cemetery there, for example, and it was for  
6 an Indian spiritual ground or something like that.

7 Q. So those are the categories then  
8 archaeological sites, tourism values. Anything else?

9 A. I can't think of anything else right  
10 off hand. Now, we have -- in our responses we probably  
11 have some clues to those other categories.

12 Q. Well, I would like you to look at  
13 those, not necessarily now, and if there is more  
14 information to give me about that, perhaps you will do  
15 that later.

16 A. Yes, we can do that. That is not a  
17 problem. Do you want -- just make sure I know what you  
18 want. You want a listing of all the categories.

19 Q. Of reserves that are included in  
20 that?

21 A. In (b)?

22 Q. In total, that's right.

23 A. That are not fish, wildlife or plant  
24 values?

25 Q. Exactly.

1 A. Yes, okay.

2 Q. Now, if we look at the last column on  
3 the page its numbers of post-cut inspections.

4 A. Yes.

5 Q. And will you agree that even  
6 considering that different columns include different  
7 numbers of management plans, there is still a  
8 considerable variation in the number of inspections  
9 done in the various districts?

10 A. Yes.

11 Q. Okay. Now, do you have any  
12 explanation of why that variability exists?

13 A. Well, sure. It depends on what you  
14 call a post-cut inspection and it is difficult to get  
15 everybody to agree totally on exactly what that is.

16 Some people felt that a post-cut  
17 inspection only happened when they physically went to  
18 that particular site for the sole purpose of walking  
19 around and doing a post-cut inspection and others felt  
20 if they flew over it in an airplane on the way back  
21 from another job and looked down on it that constituted  
22 a post-cut inspection.

23 And so you see you can have 246 versus 2  
24 and it just -- it was the difficulty of trying to get a  
25 clear definition through to our people of what a

1 post-cut inspection was.

2 Q. And were you involved in sending that  
3 definition to the field?

4 A. No, I was not.

5 Q. Perhaps you could also provide us  
6 with the definition that was used?

7 A. I would imagine we could, yes.

8 THE CHAIRMAN: Are you trying to suggest,  
9 Dr. Euler, that you did something other than send a  
10 directive out to indicate whether or not a post-cut  
11 inspection was made?

12 DR. EULER: No. We sent the directive --  
13 the memo out asking the field staff a number of  
14 questions. Well, everybody is working very hard and  
15 trying to get all this done and it is just natural and  
16 normal that people interpret some of these things  
17 slightly differently.

18 THE CHAIRMAN: No, but I guess my  
19 question is: In the directive, did you define post-cut  
20 inspection or did you just ask for data concerning--

21 DR. EULER: Post-cut inspections.

22 THE CHAIRMAN: --how many post-cut  
23 inspections were made and then the data came back in  
24 various forms depending on the interpretation by those  
25 who viewed it?

1 DR. EULER: Well, I was just looking here  
2 for the actual memo and I don't see it. It should be  
3 here. Would you like me to just page through it and  
4 tell you exactly what we asked?

5 MR. FREIDIN: That would be one of the  
6 things that might be possible answer to the question.

7 THE CHAIRMAN: Well, we could short  
8 circuit you having to come back in this area if the  
9 directive just said: Tell us how many post-cut  
10 inspections were made, and there was no definition.

11 MS. SWENARCHUK: Right.

12 THE CHAIRMAN: So if you could just look  
13 through it for a moment, then we can leave this area  
14 perhaps.

15 DR. EULER: All right. Just while I am  
16 looking through this, Mr. Chairman, you might note,  
17 Note No. 6 which would bear on this question somewhat.

18 Well, here I have the sentence that was  
19 sent to the districts, Mr. Chairman. Should I read it?

20 THE CHAIRMAN: Yes.

21 DR. EULER: "Please indicate the number  
22 of post-cut inspections which took place  
23 to examine areas where moose guidelines  
24 were applied."

25 So it was not a very specific question in



1 terms of defining what constituted a post-cut  
2 inspection.

3 MS. SWENARCHUK: Q. And what they were  
4 looking for?

5 DR. EULER: A. Well, we said to examine  
6 areas where moose guidelines were applied, that's  
7 right, so that is as specific as we got.

8 Q. Dr. Euler, at page 522 - if you will  
9 keep the chart handy because we will be coming back to  
10 it - you've indicated --

11 MR. FREIDIN: What page?

12 MS. SWENARCHUK: 522.

13 Q. You've indicated in the second  
14 paragraph that wildlife managers endeavor as much as  
15 possible to know the location of threatened and  
16 endangered species and protect their habitat.

17 DR. EULER: A. Yes.

18 Q. Now, if we look back at the chart...

19 MS. SWENARCHUK: could I just point out,  
20 Mr. Chairman, that our purpose in asking these  
21 questions to which the replies were provided through  
22 the chart was again to try to get some sense of how  
23 prevalent these practices are and it may be a bit  
24 tedious to work through the chart for that purpose, but  
25 I think it should be done.

1 Q. If we look back at the chart then,  
2 Dr. Euler, with regard to rare, threatened and  
3 endangered species.

4 DR. EULER: A. Yes.

5 Q. We see one area which is Carleton  
6 Place where there is a three hectare reserve for  
7 red-shouldered hawk, I believe?

8 A. Yes, mm-hmm.

9 Q. And for bald eagle, a number of  
10 areas, I total up 135 hectares.

11 A. Yes.

12 Q. Take my word for it.

13 A. Yes, I will.

14 Q. Osprey, again, a number of areas and  
15 I get a total of 157 hectares of reserve.

16 A. Okay.

17 Q. And 193 hectares of modified  
18 operations and that is mostly in the Timmins area?

19 A. Yes.

20 Q. And for heron, 51 hectare reserves  
21 and 27 instances of modified operations?

22 A. Yes.

23 Q. Now, again going to the compilation  
24 of the chart, can you tell us whether MNR looked for  
25 these species in other areas and didn't find any or

1       whether no search was done?

2                   A.   Okay.   Red-shouldered hawk just  
3       doesn't occur in the districts that are in this chart.

4                   Q.   Right, aside from Carleton Place?

5                   A.   Aside from Carleton Place, that's  
6       right.   So, I would -- I doubt if anybody looked for  
7       red-shouldered hawks.

8                   Now, in terms of bald eagles, we looked  
9       for bald eagles on a regular basis while doing the  
10      moose aerial inventory - as I think Mr. McNichol said  
11      in his evidence - and so there would be an active  
12      effort to inventory and find bald eagle nests and  
13      ospreys because they have big nests in the water.

14                  Q.   Excuse me.   So are you saying then  
15      that we should assume that there is a search for bald  
16      eagle nests in all districts?

17                  A.   Yes, yes.

18                  Q.   Okay.   Osprey?

19                  A.   Because their nests are so similar to  
20      bald eagles, you can assume that there is a search for  
21      those nests in all districts.   And likewise, great blue  
22      heron, there is a search for those nests in all  
23      districts.

24                  Those are all nests that are visible from  
25      the air and most of the time the inventory is done from

1 an airplane and it is most of the time in conjunction  
2 with moose surveys.

3 Q. And so you are telling us then that  
4 it is provincial policy to carry out surveys for these  
5 birds in all districts?

6 A. Yes.

7 Q. All right. Can you turn now back to  
8 Exhibit 433, page 8 and at the same time -- well, we  
9 will come to that in a minute.

10 The last paragraph of that page indicates  
11 that:

12 "The restriction on the use of herbicide  
13 on deciduous vegetation where there is  
14 inadequate browse for moose will benefit  
15 all species that use early successional  
16 stages of the deciduous community."

17 A. Yes.

18 Q. Now, are you aware of anywhere in the  
19 province where a restriction has been placed on such  
20 use of herbicide for this purpose?

21 A. Yes, yes. That happens when the  
22 biologist and the forester are out working together and  
23 very often the biologist will ask that the herbicide  
24 not be applied in a certain area because of the value  
25 for browse for moose and then it very often isn't.



1 Q. So that is an on-going practice?

2 A. So that does happen, yes.

3 Q. Then at page 676 of Volume II you  
4 have referred to beaver habitat and I will just read it  
5 for you so you don't have to find it. And with regard  
6 to herbicides you have said:

7 "Protect riparian areas during spray  
8 operations and avoid spraying herbicides  
9 in riparian areas."

10 And are you aware of areas in the  
11 province where that is done for protection of the  
12 beaver population?

13 A. I personally am not, of that specific  
14 case, no. I believe that it does happen however.

15 Q. You did indicate I think in your  
16 evidence that -- Tables 3 and 4 in Volume II having to  
17 do with mitigation of effects, are possible strategies?

18 A. Right. That's right.

19 Q. Not necessarily strategies that are  
20 actually carried out?

21 A. Yes, that's correct.

22 Q. And so that -- and with regard to  
23 beaver habitat, you think it may be done but you are  
24 not aware of every instance?

25 A. I am not aware of any specific

1 instances, that's right, but I believe that it does  
2 take place.

3 Q. Dr. Allin, do you have any knowledge  
4 of this issue with regard to riparian areas?

5 DR. ALLIN: A. Well, I know that there  
6 are guidelines for aerial spraying of herbicides as  
7 well as other materials and there are restrictions on  
8 the application from the air of herbicides near  
9 designated water courses.

10 I am not -- I don't think I can give you  
11 the definition of what water courses they apply to at  
12 the moment, but I know that it is a fairly inclusive  
13 list of waters and that I believe will be discussed in  
14 Panels 12 and 13.

15 Q. 12 and 13?

16 A. Yes.

17 Q. Fine, we will come back to it then.

18 THE CHAIRMAN: Ms. Swenarchuk, is this a  
19 good time for the afternoon break. We will break for  
20 20 minutes.

21 ---Recess taken at 2:30 p.m.

22 ---Upon resuming at 2:57 p.m.

23 THE CHAIRMAN: Thank you. Be seated,  
24 please.

25 MS. SWENARCHUK: Q. Would you turn to

1 page, 528, Dr. Euler, please.

2 DR. EULER: A. Yes.

3 Q. And looking at the last paragraph  
4 there.

5 A. Yes.

6 Q. The fifth line from the bottom:  
7 "In many cases habitat will be improved  
8 and wildlife populations may be increased  
9 through timber harvesting. The key  
10 concept in modern timber harvest is  
11 careful planning and management of the  
12 disturbance in such a way that it  
13 resembles natural events as much as  
14 possible."

15 Now, are you saying that timber  
16 management planners now plan the harvest consciously to  
17 mimic natural events as much as possible, or is it just  
18 a concept?

19 A. It is a concept as I write it here.

20 Q. Can you look at 531, the section on  
21 hawk owls?

22 A. Hawk owls, yes.

23 Q. The second paragraph on the page.

24 A. Yes.

25 Q. "Hawk owls, an example of a wildlife

1 specialist, require relatively specific  
2 habitat conditions. They are restricted  
3 to the boreal forest where they nest in  
4 large holes in trees or at the top of  
5 broken snags."

6 A. Yes.

7 Q. And the section overall discusses  
8 natural disturbance and effects on wildlife?

9 A. Yes.

10 Q. Now, do you agree that when we  
11 compare clearcutting to natural disturbance, that  
12 clearcutting doesn't leave standing dead trees on the  
13 cut-over?

14 A. Well, sometimes it would. I have  
15 seen stands that are called clearcuts that took  
16 merchantable timber and there was quite a bit of  
17 material left.

18 Q. Standing dead trees?

19 A. Yes.

20 Q. So would you say that that is to the  
21 extent that hawk owl protection is favoured in  
22 clearcutting?

23 A. Well, no. No, I wouldn't make that  
24 kind of a generalization. I guess the point I would  
25 like to make is clearcutting is such a varied activity



1       that it's hard to make generalizations.

2                       Sometimes clearcuts take everything off  
3       the landscape and it's really hard to generalize on  
4       clearcutting. That's a problem and this whole issue  
5       is: What is a clearcut exactly.

6                       And if a clearcut is defined as taking  
7       every stick of living vegetation off the land, then  
8       that's one thing; if it is taking all the merchantable  
9       timber off, then that's something else quite again.

10                      Q. And so you are saying presumably the  
11       type of cut varies within that range?

12                      A. Oh yes, very definitely. And, of  
13       course, then the impact on wildlife varies too  
14       depending on the nature of the cut, what's in the  
15       vicinity, and all of these factors that we listed.

16                      Q. Okay. Can you look at 539, please,  
17       and I am looking at the list of variables you have  
18       included there.

19                      A. Right.

20                      Q. Starting at the bottom of the page--

21                      A. Yes.

22                      Q. --and continuing on to 541.

23                      A. That's right, okay.

24                      Q. Eleven variables which relate to  
25       information about -- you say on decisions about how to

1 balance the needs of timber production and wildlife,  
2 they are both site-specific and provincial in scope and  
3 they must include all relevant information such as, and  
4 you list 11 variables.

5 Now, the second is physiographic  
6 condition, the third is plant and wildlife communities  
7 present before the cut, and fourth is composition and  
8 age of plant communities in the vicinity of the cut.

9 Now, do you agree that current MNR policy  
10 does not require collection of all of this information  
11 prior to a decision?

12 A. Yes, that's right.

13 Q. And staying at page 541, the last  
14 paragraph, you indicate that:

15 "If the Timber Management Guidelines for  
16 moose and deer are followed many wildlife  
17 values will be protected and application  
18 of the guidelines will ensure production  
19 and maintenance of the habitat conditions  
20 that moose and deer require; namely, a  
21 wide variety of vegetation, age-classes  
22 and species...and most wildlife species  
23 present will be reasonably protected."

24 Now, is this the 70 per cent that you  
25 refer to later in your testimony, the 70 per cent of

1 species that will be protected?

2 A. Yes, that's right.

3 Q. And in Exhibit 433, at Tables 22 --  
4 20, 22 and 23 we have lists of species which -- I am  
5 putting this to you as a question: Are the species  
6 listed in Tables 20, 22 and 23 the ones that may not  
7 reasonably be protected through these guidelines?

8 A. That's correct.

9 Q. So those are the ones that are  
10 excluded by that statement on page 541?

11 A. Yes, that's right.

12 Q. Now, again, coming back to the  
13 habitat population question: Isn't this statement and  
14 this assumption that most wildlife species present will  
15 be reasonably protected qualified by the uncertainty  
16 that exists with relation to a relation between habitat  
17 and population levels?

18 A. Well, sure, in the sense that it is  
19 not an absolute, it is not something that one can go  
20 out and prove beyond any shadow of a doubt. There is  
21 always uncertainty in this business and there is a  
22 certain amount of uncertainty here. Although in my  
23 judgment, in my professional opinion I think it is  
24 reasonable to make that statement.

25 Q. You don't, however, have population

1 data that would support it?

2 A. Well, I wouldn't quite conclude that.  
3 The trouble is when you talk about population data it  
4 can mean so many different things. We do have some  
5 indices, for example, to some of these species.

6 Q. For some species.

7 A. I think we went over those. So we  
8 are not without data. At the same time, we don't have  
9 data on everything. It is trying to shoot that middle  
10 ground between excessive measurement and adequate  
11 measurement and that's what we are trying to do.

12 Q. Isn't it also true that with respect  
13 to many of the species in which you have data, to which  
14 we referred earlier, that you don't have long-term  
15 population trend data?

16 A. That's right. We don't have as much  
17 long-term population trend data as I wish we had.

18 Q. Okay. Now, on the same subject,  
19 looking at page 12 of Exhibit 433, here again dealing  
20 with the limitations of the guidelines in the boreal  
21 forest, the first paragraph.

22 A. Yes.

23 MR. FREIDIN: What page?

24 MS. SWENARCHUK: Page 12.

25 Q. "A total of 213 species occur



1 primarily in forest management units in  
2 the boreal region...as defined by Baker.  
3 All but 37 of these species should have  
4 sufficient habitat provided by one or  
5 more provisions in the moose habitat  
6 guidelines."

7 The 'should' reflects a certain degree of  
8 uncertainty; does it not?

9 DR. EULER: A. Yes, it depends on the  
10 fact that the guidelines are applied properly and no  
11 uncertain events that we have no control over occur and  
12 that sort of thing.

13 Q. And then on page 100 -- sorry, on  
14 page 14, this is with regard to the deer guidelines.

15 "Of the 284 species that occur primarily  
16 in the Great Lakes-St. Lawrence Forest  
17 Region, 145 species have one or more of  
18 their preferred habitats provided for in  
19 the deer guidelines. The 140 species may  
20 not have adequate provisions for their  
21 preferred habitat..." and "...49 species  
22 in Categories 1 through 5 (Table 23) may  
23 not have adequate habitat provided for in  
24 the deer guidelines."

25 So that's a total of what, 189 species?

1                   A. If you just add 140 to 149, that's  
2 right.

3                   Q. Right. That's quite a lot of  
4 species; isn't it?

5                   A. Yes, it is. Now, we feel that  
6 between the moose and deer guidelines -- you see, the  
7 statement in my evidence that I have led is: In  
8 application of the moose and deer guidelines, see, I am  
9 including both of those things in that 70/30 split,  
10 okay.

11                  Q. Right.

12                  A. And that's intended to be a broad  
13 generalization. Now, you can go to any one particular  
14 place with application of a particular guideline and it  
15 may -- there may be something different in that  
16 specific area, but as a generalization that's how the  
17 statement is made.

18                  Now, if you add the other guidelines that  
19 apply, like tourism and fish, then that also helps  
20 because the big thing we miss in the deer guidelines  
21 are the riparian areas because deer just don't happen  
22 to need riparian areas.

23                  Q. So more species will be covered by  
24 the fish guidelines, you say?

25                  A. Yes. So if you put the fish

1 guidelines and deer guidelines together, you would get  
2 a lot more of them.

3 Q. Okay. Is it your opinion that any  
4 additional enforceable provincial guidelines are  
5 necessary to protect more species and, if so, which  
6 ones?

7 A. Well, I think in my evidence what I  
8 talked about in Panel 10 was the fact that the moose  
9 and deer guidelines could be supplemented by two  
10 guidelines, two general statements involving snag  
11 species and area-sensitive species.

12 And I think if those two guidelines were  
13 put in place, we would deal with habitat needs of  
14 virtually all the vertebrates that are in the area of  
15 the undertaking.

16 See, that's what we are really missing,  
17 are the area-sensitive species and the snag species.

18 Q. And you would propose provincial  
19 guidelines for those species?

20 A. Well, we may have to solve that  
21 problem. I am just not sure that a provincial  
22 guideline is the only way to do it. There may be other  
23 ways of doing it and we are talking about  
24 administrative tools here.

25 I know some of the FMAs that are being

1 signed now contain groundrules that address the issue  
2 and that may be an adequate way to do it. There is  
3 probably more than one way to get the intended result  
4 and that's what we want, is the intended result.

5 Q. So you are not specifically  
6 advocating provincial guidelines?

7 A. Not specifically, no.

8 MR. MARTEL: Can I ask a question, then?  
9 If this is the approach that you have presented, why  
10 hasn't the Ministry then in fact adopted these  
11 proposals which in fact would protect most of the  
12 habitat for the species that you have indicated?

13 DR. EULER: Okay. Two reasons. The snag  
14 species present a very difficult problem because of the  
15 Occupational Health and Safety Act. It is very hard  
16 for the Ministry, for example, to prepare a guideline  
17 or a groundrule when another Act of the legislature  
18 says the woodworker must cut those things down. So it  
19 becomes a legal problem, how do you deal with that,  
20 and so that has been difficult to resolve.

21 Now, the second thing is, you have to  
22 remember that we are in an evolving process and in  
23 Ontario we are evolving through this featured species  
24 management approach. Now, we are aware that there are  
25 some deficiencies in the featured species management



1 approach and we are discussing ways of trying to deal  
2 with them. We just simply have not come up yet with  
3 the best solution for dealing with those deficiencies.

4 MS. SWENARCHUK: Q. With regard to the  
5 Occupational Health and Safety Act, has the Ministry of  
6 Natural Resources, to your knowledge, entered into any  
7 discussions with the Ministry of Labour as to whether  
8 some amendment could be possible for wildlife  
9 protection?

10 DR. EULER: A. Not to my knowledge.

11 Q. That is an option, I guess?

12 A. Yes, that is an option.

13 Q. And following on this point, going  
14 back to page 12 of Exhibit 433:

15 "In order to provide sufficient  
16 protection for the 19 species listed as  
17 being area-sensitive and preferring moose  
18 winter concentration habitat would  
19 require that areas of 100 ha or more be  
20 provided. These areas should contain  
21 mature and old-growth trees and snags  
22 should not be removed."

23 Now, do you agree with me that such areas  
24 are not, at this time, being provided?

25 DR. EULER: A. Well, not officially in

1 any official statement. Now, many of your biologists  
2 would try to keep bigger areas, but we don't have an  
3 official policy that says protect them.

4 Q. Okay.

5 A. That's one of the deficiencies that I  
6 talked about as we laid all this on the table.

7 See, it is also important to remember  
8 from evidence that was led in one of the earlier panels  
9 that at the moment there is -- a great deal of the  
10 northern forest is in this mature and old growth stage.

11 So we don't see an immediate problem for  
12 these species. Our concern is for the future in  
13 developing programs and policies to ensure that we  
14 don't have a problem in the future.

15 Q. Okay. Page 543 of the witness  
16 statement, the last paragraph of the page with regard  
17 to cavity-nesting species:

18 "In Ontario, cavity-nesting species or  
19 wildlife that feed on forest insects do  
20 not appear to have been reduced by forest  
21 management activities that reduce  
22 snags in the forest. There is a level of  
23 uncertainty about this matter."

24 Now, what is the evidence that supports  
25 the idea that these populations have not been reduced?

1                   A. Well, first of all, I think if you  
2                   were to make -- if you look at the list of those  
3                   species that fall in that category and, for example,  
4                   you look at the Breeding Bird Atlas as prepared by FON,  
5                   I don't think there is any evidence there that would  
6                   suggest there would be a concern. And, to the best of  
7                   my knowledge, no concerns came out of that.

8                   Now, in the rare bird breeding program  
9                   that the Ministry and FON are cooperating for, there  
10                  are two or three owls which are cavity-nesters that are  
11                  considered rare, but it is hard to say that those  
12                  rarities have been caused by forest management because  
13                  they may well be just rare anyway.

14                 Q. So the continued observations  
15                 referred to in the second last line of the page are the  
16                 observations of the Breeding Bird Atlas; is that what  
17                 you are referring to?

18                 A. Yes. And then in the Ministry we are  
19                 now also entering a new monitoring program that we have  
20                 just been funded, in which we will be establishing  
21                 population indice-gathering techniques throughout  
22                 northern Ontario, particularly in looking at  
23                 cavity-nesting or snag wildlife, and begin the process  
24                 of recording where they are and making sure that as we  
25                 move through the future that they don't decline.

1 Q. And will that program respond to the  
2 concerns you have expressed in Exhibit 433 at page 15  
3 and 16 about monitoring needs?

4 A. Well, it will go a long ways towards  
5 those concerns, yes.

6 Q. Will it deal with the four subject  
7 headings that you have listed there: Snags,  
8 area-sensitive species, human disturbance and wetland  
9 and riparian habitat?

10 A. Yes, right, it will deal with those.

11 Q. Okay. Back to 544, again regarding  
12 area-sensitive species - I guess you answered this  
13 already - there isn't a specific policy of leaving  
14 large areas now uncut for area-sensitive species, but  
15 you are saying you think it happens in some areas?

16 A. Well, normal timber management would  
17 very often leave large areas uncut, because if you have  
18 a large clearcut, for example, eventually that becomes  
19 a large uncut area maybe a hundred years from now.

20 So it is a question then of: What you do  
21 in normal timber management and then what you do to  
22 deal with the specific concerns.

23 Q. Go on.

24 A. Well, I would like -- one of the  
25 things that the biologist will often advocate to the



1 forester wherever he can is just simply leave some  
2 large areas uncut.

3 Well, sometimes you can do that and  
4 sometimes you can't. Sometimes the problems of  
5 financing in road building, and that's what happened in  
6 Ontario now, we have some fairly large areas of this  
7 old growth or older forest and that wasn't necessarily  
8 because people planned it, it is just they couldn't get  
9 there. So...

10 Q. Where are these areas?

11 A. You mean you want a specific location  
12 on the ground?

13 Q. Do you have specific locations in  
14 mind?

15 A. No. What I am referring to is an  
16 exhibit that was introduced very early in the hearings  
17 called Forest Resources.

18 Q. The age-classes?

19 A. Yes, the age-classes, and it shows  
20 the distribution of the forest.

21 Q. Right.

22 A. And there are large areas of older  
23 forest in that document, and so that's what I am  
24 referring to.

25 Q. That's a graph of proportions; is it

1 not, it is not maps of areas where --

2 A. No, it isn't maps of areas. So the  
3 actual locations on the ground will vary throughout the  
4 province.

5 Q. I was going to ask you this question  
6 later, I will ask it to you now. In order to  
7 facilitate wildlife protection, has there been any  
8 surveying establishing where areas of old growth are  
9 that should perhaps be left and protected for wildlife?

10 A. No.

11 Q. Now, at page 546 you begin discussing  
12 bald eagles, and I understand from what you said  
13 earlier that it is the practice to do inspections of  
14 the districts where bald eagles might be anticipated to  
15 establish whether in fact there are nests there?

16 A. Yes.

17 Q. And that's done right across the area  
18 of the undertaking?

19 A. Well, where eagles occur. I mean,  
20 there are districts where they just never occur, of  
21 course.

22 Q. Now, at page 809 of the volume you  
23 have included the Bald Eagle Habitat Management  
24 Guidelines.

25 A. Yes.

1 Q. Now, I take it that -- is this a  
2 guideline with the status of a provincial guideline, or  
3 is it a resource manual?

4 A. It is a resource manual.

5 Q. So its application is not mandatory?

6 A. Well, you can't conclude that because  
7 the Endangered Species Act specifies that habitat of an  
8 endangered species cannot be destroyed.

9 And so it just takes status from a little  
10 different source; i.e., the Endangered Species Act, as  
11 opposed to status from the guideline.

12 Q. Okay. Well, let's look at some of  
13 the provisions. At page 822--

14 A. Yes.

15 Q. --Paragraph A, sub 2 and paragraph B  
16 sub 2. Primarily A is about a primary zone and it  
17 indicates that:

18 "All land-use except actions necessary to  
19 protect or improve the nest site should  
20 be prohibited in this zone."

21 A. Yes.

22 Q. It doesn't say shall be prohibited.  
23 Is it the practice, in your experience, to establish  
24 such a zone and prohibit all land use actions except  
25 those necessary to protect or improve?

1 A. To the best of my knowledge and in my  
2 experience, yes.

3 Q. And does the same apply to the  
4 secondary zone referred to below, restrictions in that  
5 zone, again:

6 "Land-use activities that result in  
7 significant changes in the landscape,  
8 such as clearcutting, land clearing..."  
9 et cetera, "...should be prohibited.  
10 Again, is that the case?

11 A. Well, now in this case I will have to  
12 say most of the time. I do know of some incidences  
13 where this has been violated.

14 Q. Okay. You will recall writing a  
15 paper in 1977, Dr. Euler--

16 A. That's a long time ago.

17 Q. --about the effects of clearcutting  
18 on wildlife management?

19 A. Yes.

20 THE CHAIRMAN: Exhibit 499.

21 ---EXHIBIT NO. 499: Paper prepared by Dr. Euler, 1977.

22 DR. EULER: Can I get a copy of that. I  
23 may not remember precisely which word I used 12 years  
24 ago. (handed)

25 MS. SWENARCHUK: Well, I'm glad we are



1       amusing you, Dr. Euler.

2                   Q.   Can you look at page 21, please.   The  
3   last paragraph on the page.

4                   DR. EULER:   A.   Page 21?

5                   Q.   Right.

6                   A.   Yes.

7                   Q.   It indicates that:

8                   "Unfortunately there is no way to predict  
9                   where an eagle will nest or where a deer  
10                  will winter.  These  --"

11                  MR. FREIDIN:  Where are we reading?

12                  MS. SWENARCHUK:  The last paragraph on  
13   the page.

14                  Q.   "These anomalies can be identified in  
15                  a pre-cut inspection of the potential  
16                  cut, thus a winter and spring inspection  
17                  is essential to any timber management in  
18                  a timber management operation."

19                  Do we normally now have both winter and  
20   spring inspections?

21                  DR. EULER:   A.   Well, I can't testify to  
22   that.  Maybe.  I just don't know.

23                  Q.   Fine.  I think we will come back to  
24   the paper later.

25                  Could you turn back in Volume II now to

1 page 551, and it is the second paragraph about  
2 two-thirds down.

3 "In some instances, timber cutting does  
4 not produce the best possible moose  
5 habitat because the cost of modifying  
6 the cut is too high, or because the  
7 objectives for generalist habitat can be  
8 met elsewhere. However, in other  
9 instances, timber companies incur  
10 considerable extra costs in order to  
11 modify the cut on behalf of moose."

12 In your experience, does the Ministry  
13 ever provide compensation to the companies for  
14 modification of the cut for moose habitat?

15 A. No, the Ministry doesn't do that, in  
16 keeping with its general policy of not providing  
17 compensation to other users that incur problems,  
18 because in every case they try very hard to work these  
19 problems out.

20 Q. In your view is this a strategy that  
21 should be considered or not?

22 A. The problem is, if you start to  
23 compensate people for what they believe to be costs  
24 that they incur, it just becomes a black hole for money  
25 because everybody out there will then propose that the

1 timber action has caused them considerable extra cost  
2 and it just becomes unmanageable.

3 That's why wherever possible you work  
4 these problems out and you ask everybody to bear some  
5 portion of the cost. So we would say to the timber  
6 company: Please bear some of the cost, and we would  
7 say to the other party: You too will have to bear some  
8 of this cost because the benefits that accrue in  
9 aggregate are very worthwhile.

10 Q. Who would the other party be in that  
11 situation?

12 A. Well, in this case it might be the  
13 recreational hunters. See, because if we are asking a  
14 timber company to incur extra cost to modify the cut on  
15 behalf of moose, we might ask the recreational hunter  
16 to incur a cost to allow the moose population to  
17 respond. So everybody is paying somehow.

18 Q. Fair enough. This 1977 paper, if we  
19 can refer back to it, could I generalize and describe  
20 it as a discussion of moose habitat and wildlife  
21 habitat, but particularly moose, and the clearcut  
22 restriction policy which was being proposed at that  
23 time--

24 A. Yes.

25 Q. --and which the Board has already

1 looked at, the Flowers and Robinson Policy?

2 A. That's right. I was asked to write  
3 this paper with that policy in mind.

4 Q. Now, if we look at page 15, paragraph  
5 2, it reads:

6 "It is simple and easy to say that  
7 clearcutting should mimic natural  
8 disturbances as far as possible. It is  
9 not so easy to translate that into a more  
10 specific guideline. The basic general  
11 background idea is that clearcutting  
12 should be as similar to the natural  
13 disturbances which occurred prior to  
14 European settlement of this country as  
15 possible. In general, this translates  
16 into relatively small disturbances  
17 scattered through the managed area and  
18 allowed to regenerate in as natural a  
19 manner as possible."

20 Do you still agree with that statement?

21 A. Yes. See, that allows -- I tried to  
22 be careful in the words here because it still allows  
23 then -- if you say in general, this translates, well,  
24 that is true as a generality, but there is lots of  
25 exceptions in specific cases where you wouldn't



1 necessarily have these relatively small disturbances.

2 And then, as I point out in the next  
3 paragraph, there are many real world constraints on  
4 this ideal. So you are never -- that is an ideal, that  
5 is a vision, sort of the Emerald City or the Eternal  
6 City the pilgrim was trying to go to on his journey and  
7 we are never going to get there, but nevertheless it's  
8 useful to have it as an ideal to strive towards.

9 Q. But that is the standard you have in  
10 mind when you talk about clearcutting that mimics  
11 natural disturbance?

12 A. Yes, that's right.

13 Q. And if we can look then at pages 17  
14 and 18 regarding the size of clearcuts, you refer to a  
15 paper by John McNichol at the University of Guelph at  
16 that time.

17 MS. SWENARCHUK: This is the second last  
18 paragraph from the bottom, Mr. Chairman.

19 DR. EULER: Yes.

20 MS. SWENARCHUK: Q. And his management  
21 recommendation at that time was individual cut-overs  
22 should not exceed 130 hectares.

23 DR. EULER: A. Right. That is where  
24 that item came from, that then was codified in the  
25 guidelines, the moose guidelines.

1 Q. Right, the late moose guidelines.

2 Then in the last paragraph of the page --

3 A. No. The late moose guidelines, the  
4 guidelines we have right now.

5 Q. Right. I am now talking about 260  
6 hectares rather than a 130. We will come to that  
7 later.

8 A. Oh, okay.

9 Q. Then the last paragraph you're  
10 referring back to the proposed limitation on clearcut  
11 size; are you not, when you say the policy, meaning  
12 that policy.

13 A. I am sorry --

14 Q. Last paragraph of the page.

15 A. Oh, yes.

16 Q. "The policy guidelines would produce  
17 maximum individual clearcuts of about 120  
18 hectares with smaller cuts on shallow  
19 soils."

20 A. That's right.

21 Q. "Buffer zones would be left around  
22 major cutting areas and return cuts could  
23 not occur until ten years after the first  
24 cut. Average cut size would be around 64  
25 hectares."

1 A. Right.

2 Q. And on the next page you say:

3 "The result of these guidelines will be a  
4 very diverse habitat with a great deal of  
5 edge. The clearcut areas in some cases  
6 would be somewhat bigger than recommended  
7 by Peek, et, al but are a very realistic  
8 Compromise between the needs of moose and  
9 the needs of people for wood fiber and  
10 Telford suggested 128 hectares might  
11 be optimal.

12 A. For moose.

13 Q. For moose, right. You still agree  
14 that these are the optimal cut sizes for moose?

15 A. Oh yes. Mm-hmm, mm-hmm. In my  
16 opinion, yes.

17 Q. Now, going back to page 551 of Volume  
18 II, at the bottom of the page you've indicated that:

19 "There is a net positive benefit to moose  
20 populations from timber harvest over much  
21 of Ontario.

22 " Now, how do you measure that and how  
23 do you conclude that harvest itself has had a net  
24 positive benefit?

25 And let me just give you the other part

1 of the question: How do you distinguish the benefit of  
2 harvest from the benefit of hunter control?

3 A. Okay. That is a gray question and  
4 you might want to sit down because we are going to have  
5 to talk a long time about this one.

6 See -- and I am going to have to go back,  
7 Mr. Chairman, because this is an intriguing question,  
8 there's a lot of background, pour a glass of water  
9 because it is going to take us a little while.

10 We were faced with a problem in Ontario  
11 of moose populations declining, there was just no doubt  
12 about it, they were going down. The first question  
13 that one would ask is: Why?

14 Q. When was this?

15 A. Well, in the early 1970s, okay.  
16 There was just no doubt about it that the populations  
17 were careening on a downward slope, and that was a  
18 problem for the Ministry of Natural Resources because  
19 moose are a popular game animal, they are very  
20 important to Canadians.

21 The question -- the first question that  
22 you have to ask is: Well, why are they going down?  
23 And if you looked at all the reasons that they might be  
24 going down, the reasons get down into three or four  
25 categories. One, hunting; two, habitat; three,



1 predation and disease - we'll lump those together - or  
2 four, climate or weather conditions.

3 We did a fairly extensive study of moose  
4 populations, we put a lot of person hours into that and  
5 we concluded that the major reason the moose  
6 populations were going down was because of hunting;  
7 hunters had killed too many, not because they  
8 deliberately tried to, but because the regulations at  
9 that point were wide open, anybody could buy a licence  
10 and shoot a moose and there were no restrictions.

11 But we also concluded that although that  
12 was the major reason they were going down, the  
13 conclusion also was that habitat deterioration might  
14 have contributed to it as possibly did weather and  
15 possibly predation.

16 So we corrected the hunting problem and  
17 the herd since then has begun to get back to where it  
18 was and, in fact, it is now quite a bit higher than  
19 what it was. So you conclude from this massive  
20 experiment and a lot of pain and letters and problems,  
21 you concluded that we were basically right in that the  
22 major problem was hunting and the moose have rebounded  
23 since then.

24 Well, what you also have to conclude then  
25 is that the habitat was not limiting because had it

1       been limiting they wouldn't have rebounded when we  
2       stopped killing them. Okay. So something about the  
3       habitat had to be good enough so that they could  
4       increase.

5                       Now, a more careful, probably more  
6       scientific worded statement would be: There is no  
7       evidence that timber harvest has had a negative effect  
8       on moose. But, in my view, I translated that: Knowing  
9       what timber harvest does, knowing that it produces  
10      certain habitats that are good for moose, in my view,  
11      it has had a net positive benefit, although certainly -  
12      and I showed some pictures where it was negative in a  
13      certain local area, if you look at the province as a  
14      whole and the moose herd as a whole, the net appears to  
15      be in my opinion positive.

16                    Q. So you are saying that had those  
17      hunter controls been instituted and had timber  
18      management not been going on, that the moose herd would  
19      be smaller than it is now?

20                    A. In my view it would be somewhat  
21      smaller than it is now, that's correct.

22                    Q. Very much smaller?

23                    A. Well, I am not sure. See, because we  
24      control fires in the province. Something has to  
25      disturb the forest if moose are going to benefit and

1 that something is logging. So...

2 Q. The benefit of timber management  
3 planning is to be seen in the context of fire control  
4 as well?

5 A. Well, yeah. The whole -- it is an  
6 eco-system with all kinds of pressures on it doing  
7 things and each activity has some consequence somewhere  
8 to something.

9 So if you control fires, then it has a  
10 consequence; if you do logging, then that has a  
11 consequence. And just summing it, trying to look at it  
12 as a generalization, making my best professional  
13 opinion, based on the things that I said, I felt it was  
14 a net positive benefit.

15 But beyond that, it is very hard for me  
16 to say: Well, it would be 10 per cent lower if there  
17 were no timber harvest, or 50 per cent lower or so on I  
18 just can't say that.

19 Q. Can we look at m.the red-shouldered  
20 hawk question now, it's at page 552 of--

21 A. Yes.

22 Q. --Volume II.

23 A. Okay.

24 Q. Now, if we recall the chart which we  
25 looked at earlier, you'll recall that the one district

1 in which red-shouldered hawk has been the subject of  
2 some management prescriptions is Carleton Place?

3 A. On this chart. Yes, that's correct.

4 Q. Yes, on the chart. And I think I  
5 could go further and specify that as I am aware, it is  
6 in the Lanark Crown Management Unit of Carleton  
7 District?

8 A. That's right. Yes, it is.

9 Q. Now, I have a certain personal  
10 interest in this issue. Do you agree, Dr. Euler, that  
11 the interest in red-shouldered hawk originated about  
12 two years ago when a combination of the FON and Dr. Ted  
13 Mosquin initiated some searches in the Lanark Crown  
14 Management Unit which turned out the presence of  
15 red-shouldered hawk?

16 A. Yes.

17 Q. And that led the Lanark Management  
18 Unit to begin management prescriptions for it?

19 A. Yes.

20 Q. And led to further activity including  
21 a study of red-shouldered hawk - which I only have one  
22 copy of this large document - done under the auspices  
23 of the Ministry by Messrs. Campbell and Huizer; is it?  
24 Huizer.

25 A. I am not sure how you pronounce it.



1 Q. H-u-i-z-e-r. In any event, in the  
2 Lanark area.

3 A. Yes.

4 Q. And, of course, we consider it  
5 totally commendable that these initiatives have been  
6 taken, but would you not agree, Dr. Euler, that one of  
7 the interesting elements of the red-shouldered hawk  
8 example is that it's not necessarily the rarest bird  
9 that hasn't been paid attention to up to now, there  
10 maybe birds that are more rare than the red-shouldered  
11 hawk, but that the interest has been aroused in the  
12 red-shouldered hawk through this public involvement?

13 A. There is no question that the  
14 interest has been involved in this public involvement,  
15 yes indeed. Now, discussions of rarity and which bird  
16 is more rare is fairly technical and complicated  
17 because, remember, we have got to talk about rarity in  
18 the context of timber management as well.

19 Q. Well, let's just look at the  
20 proposition this way: Would you agree then that the  
21 reason for the interest now paid to the red-shouldered  
22 hawk is not that it has been identified as a  
23 particularly rare bird, therefore in need of  
24 protection, but it has been -- it has become a bird in  
25 which the public has shown interest? There is a

1 certain arbitrariness in fact to the attention it is  
2 getting now.

3 A. Well, I guess I find it hard to  
4 equate arbitrariness with attention from the public. I  
5 wouldn't use that word.

6 There is no question that it is getting  
7 more attention because of public pressure. The  
8 Ministry is clearly responding to that public pressure.

9 Q. Right.

10 A. There is just no question about that.

11 Q. And, unfortunately, the Ministry  
12 doesn't have a province-wide monitoring program that  
13 would have identified the rare bird that most needs  
14 attention right now?

15 A. Well, I think the Ministry is trying  
16 to cooperate with other agencies to identify which  
17 birds need most attention. See, most rare birds are  
18 not in the area of forest management.

19 Q. Are you familiar with the Bryant  
20 paper on the red-shouldered hawk produced by the  
21 Ministry the Raptor Nest Survey on Crown Lands in the  
22 Lanark Crown Management Unit of Carleton Place  
23 District?

24 A. I have read it, yes.

25 MS. SWENARCHUK: Mr. Chairman, I could,

1 when we finish, perhaps produce a title page and  
2 recommendations as an exhibit if you wish and if you  
3 want to give it an exhibit number now, we will have it.

4 THE CHAIRMAN: Are you going to be  
5 referring to it?

6 MS. SWENARCHUK: One paragraph of it.

7 MR. FREIDIN: I'm not too sure if it is  
8 helpful to file a conclusion page of the article  
9 without a discussion of the article.

10 THE CHAIRMAN: Well, I take it, Ms.  
11 Swenarchuk, you have got one copy available?

12 MS. SWENARCHUK: Presumably the Ministry  
13 has more since it is a Ministry document.

14 THE CHAIRMAN: Well, I don't think it is  
15 necessary to put the whole thing in if you are going to  
16 just refer to a paragraph.

17 Perhaps you could set the stage around  
18 the paragraph you are going to ask the question about  
19 and then, if the Ministry wants to reserve an  
20 opportunity to look at it in detail and come back to  
21 that area of questioning, I suppose you can do it that  
22 way.

23 MR. FREIDIN: And, of course, if Dr.  
24 Euler wants to see the article in order to respond to  
25 the question, then he should be allowed to.

1 THE CHAIRMAN: Yes.

2 MS. SWENARCHUK: Certainly.

3 MR. TUER: Well, Mr. Chairman, if this is  
4 an article that is not readily available, surely it  
5 should be made available here if it is going to be  
6 referred to part or in whole.

7 I am not saying that everybody should be  
8 given a copy of it, but certainly one copy should be  
9 filed so it can be referred to.

10 THE CHAIRMAN: Would you be prepared to  
11 have the one copy you have admitted and left on file in  
12 the reading room?

13 MS. SWENARCHUK: Yes, our copy.  
14 Certainly certainly.

15 THE CHAIRMAN: All right. Why don't we  
16 do it that way. Exhibit 500.

17 ---EXHIBIT NO. 500: Article entitled: Raptor Nest  
18 Survey on Crown Lands in the  
19 Lanark Crown Management Unit of  
20 Carleton Place District,  
by Campbell and Huizer, produced  
MNR, June 3, 1988.

21 MS. BLASTORAH: Could we have the whole  
22 title of that, Mr. Chairman?

23 MS. SWENARCHUK: Yes, I just read it  
24 actually. The Raptor Nest Survey on Crown Lands in the  
25 Lanark Crown Management Unit of the Carleton Place



1 District and it is by Campbell and Huizer, I'm  
2 guessing, H-u-i-z-e-r, MNR, June 3rd, 1988.

3 THE CHAIRMAN: Mr. Freidin, does the  
4 Ministry not have any further copies of this available?

5 MR. FREIDIN: I don't know. I have  
6 never -- I am not aware of the article, so I don't  
7 know.

8 DR. EULER: This is an article that was  
9 done by two people on special employment contract and  
10 the article was done by these people, they submitted it  
11 to our regional office in Kemptville and that  
12 particular paper was on file in our regional office in  
13 Kemptville.

14 And so -- because not every study that is  
15 done everywhere in the Ministry always flows to some  
16 central repository, there are just too many of these  
17 kinds of things that happen.

18 Now, this particular one, the Ministry  
19 has it, it is in our office in Kemptville and it  
20 just -- you know, if it were needed we could get a copy  
21 and make copies or whatever. It's not a big problem.

22 THE CHAIRMAN: But it is not one that is  
23 in general circulation?

24 DR. EULER: No, it isn't in general  
25 circulation. It was done for a purpose in a specific

1 area for those local managers to have at their disposal  
2 as they were in making decisions about various things.

3 THE CHAIRMAN: All right. Why don't we  
4 leave it this way: We will have this on deposit in the  
5 Board's reading room, Exhibit 500, so that any of the  
6 other parties to the hearing can examine it.

7 If it becomes a problem later with  
8 respect to other parties wanting to address it, we may  
9 request the Ministry to produce some copies.

10 DR. EULER: Yeah. That won't be a  
11 problem, it's there in the office and it would just be  
12 a matter of the mail and getting it here and so on.

13 MS. SWENARCHUK: Q. It is a raptor nest  
14 survey. Perhaps you could explain for the Board what a  
15 raptor is, Dr. Euler?

16 DR. EULER: A. Well, in general it's a  
17 bird, a bird of prey that catches prey with its feet  
18 where there are talons and it's usually -- commonly we  
19 think of raptors as hawks, owls, eagles, falcons.

20 Q. Now, in your paper at page 553, when  
21 you are discussing management of red-shouldered hawks,  
22 you indicate on the second -- in the second paragraph  
23 of page 553 that:

24 "When nests of these birds are known  
25 reserves in small cuts can be used to

1 protect their habitat. The selection  
2 system of timber harvest is consistent  
3 with managing the species and is used  
4 where it is necessary to maintain habitat  
5 for this bird. "

6 And I simply wanted to discuss with you  
7 the findings of the authors of this article and I will  
8 give you the page in a moment to look at, to the effect  
9 that - and it's on page 4, paragraph 2, and I will read  
10 the whole paragraph:

11 "MNR guidelines are given for the  
12 following species: Northern Goshawk,  
13 Coopers Hawk, Sharp-shinned Hawk,  
14 Broad-winged Hawk and Red-shouldered  
15 Hawk. Another set of guidelines is  
16 available for Osprey nest site  
17 conservation. Additional information for  
18 the red-shouldered hawk nest sites from  
19 Bryant and Dr. H. Ouillette of the  
20 Ornithology Department of the National  
21 Museums of Canada indicate that selective  
22 cutting of single trees or small patches  
23 within the nesting territories of  
24 red-shouldered hawks' nests should be  
25 avoided, contrary to the guidelines set

1 up by R. D. James in 1984."

2 Those I believe are the MNR guidelines?

3 A. That's right:

4 Q. "The selection removal of trees  
5 reduces canopy closure which in turn  
6 provides habitat more suitable for the  
7 larger red-tailed hawk, this species is  
8 then able to out-compete the rare  
9 red-shouldered hawk and drive them from  
10 the area."

11 Do you want to look at the paragraph.

12 A. I don't think I need to.

13 Q. In any event, they're advocating a  
14 change from the management prescription that you have  
15 advocated in your paper. Can you tell us whether the  
16 Ministry is considering amending the earlier  
17 guidelines?

18 A. Yes. See, what we have got here is a  
19 dispute between experts is what it amounts to. Ross  
20 James who wrote the guidelines for us is the Curator of  
21 Ornithology at the Royal Ontario Museum and he is an  
22 expert in this area and he is the person we use.

23 Now, Dr. Ouillette is Curator or  
24 Assistant Curator or something at the National Museum  
25 and the two experts have a slightly different view of



1       how best to protect red-shoulder hawk habitat.

2                       Well, as a Ministry, what do we do when  
3       we are faced with this sort of thing. Well, what we  
4       have done is we have consulted with Dr. James and this  
5       is his best opinion at this point in time.

6                       Now, what we did here is: These are two  
7       very young people, very inexperienced and doing their  
8       first jobs for the Ministry on the special employment  
9       projects, so they've done us a service. They have gone  
10      out and done some literature review and they've come  
11      back and they've said: Well, have you considered that  
12      you've got a dispute among experts here.

13                      And what we would do then is say: Well,  
14      thank you. Now, let's get into this problem and see if  
15      we have a mistake, and do we need to amend our  
16      guidelines.

17                      Now, we have been talking with Dr. James,  
18      in fact we had him at a seminar in our Algonquin Region  
19      recently and at the moment he is maintaining his  
20      position, that selection harvesting is reasonably  
21      consistent with red-shouldered hawk habitat when you  
22      provide a buffer zone around the nest.

23                      Well, we are just going to have to study  
24      that and see if it is just a difference of opinion  
25      among experts or, indeed, has new evidence come to

1 light, or just how are we going to deal with that  
2 issue. And the Ministry has not yet finished  
3 deliberations on that issue.

4 Q. Looking back at the chart that  
5 indicated reserves in Carleton Place for the  
6 red-shouldered hawk, are you aware of what management  
7 prescription is in that plan with regard to those  
8 reserves?

9 A. No, I have not seen that management  
10 prescription.

11 Q. Okay.

12 MS. SWENARCHUK: Mr. Chairman, with  
13 regard to the next subject in Dr. Euler's paper which  
14 is pine marten, I am in a bit of the same position.

15 I have another article in an MNR paper  
16 with regard to furbearers, I don't have it copied. I  
17 could make copies and hold off the questions until  
18 tomorrow morning, or I could go through it with Dr.  
19 Euler now, whichever you prefer?

20 THE CHAIRMAN: Well, I think to some  
21 extent, Ms. Swenarchuk, we should try and keep this to  
22 a minimum because I think--

23 MS. SWENARCHUK: Yes. It's an oversight.

24 THE CHAIRMAN: --it makes it difficult  
25 for the other parties to be able to follow along with

1 your question.

2 MS. SWENARCHUK: Other articles were  
3 copied, but this one was not by oversight.

4 THE CHAIRMAN: So if it isn't  
5 inconvenient, perhaps you should hold that one off  
6 until tomorrow.

7 MS. SWENARCHUK: Okay, fine.

8 MR. FREIDIN: Which one?

9 MS. SWENARCHUK: This is MNR.

10 MS. BLASTORAH: That one has already been  
11 marked.

12 MS. SWENARCHUK: Oh, I'm sorry. I didn't  
13 know that. Was it 25?

14 MR. FREIDIN: No, no.

15 ---Discussion off the record

16 MR. FREIDIN: I would like to see whether  
17 we can find it to see whether it has been marked an  
18 exhibit. I see Dr. Euler has a copy of the publication  
19 that Ms. Swenarchuk wants to refer him to.

20 If we could just have a moment, perhaps  
21 we can advisewhether it has been marked.

22 ---Discussion off the record

23 MR. FREIDIN: Perhaps we could just deal  
24 with it this way: Let Ms. Swenarchuk refer to the  
25 specific article in this publication and then we will

1 check and see whether it has been marked an exhibit.  
2 If it hasn't, then we will just produce the article as  
3 opposed to the whole publication.

4 MS. SWENARCHUK: The article is at page  
5 251. This is a reprint, Mr. Chairman, of the June, '88  
6 Forestry Chronicle and in that Forestry Chronicle was a  
7 reprint of the papers produced at an MNR Forestry and  
8 Wildlife Management in the Boreal Forest - An Ontario  
9 Workshop, Thunder Bay, Ontario, December of '87.

10 And one of the papers, and it's at page  
11 251 of the Forestry Chronicle is entitled: The Habitat  
12 Needs of Furbearers in Relation to Logging in Boreal  
13 Ontario and it's by I.D. Thompson who is a research  
14 scientist in the Newfoundland Forestry Centre.

15 THE CHAIRMAN: Well, if we don't know  
16 whether it has been entered already, perhaps we should  
17 at least give it a number at this point.

18 Exhibit 501.

19 ---EXHIBIT NO. 501: Paper entitled: The Habitat Needs  
20 of Furbearers in Relation to  
21 Logging in Boreal Ontario, by I.D.  
22 Thompson, Research Scientist,  
23 Newfoundland Forestry Centre.

24 MS. SWENARCHUK: Q. I believe you have  
25 published with Mr. Thompson; have you not, Dr. Euler?

DR. EULER: A. Yes.

Q. You know him?



1 A. Yes.

2 Q. Now, in your discussion of the pine  
3 marten in Volume II of the witness statement, you  
4 talked about a specific case of a local concern  
5 regarding pine marten in the Dryden area?

6 A. Yes.

7 Q. You didn't discuss in your section  
8 anything about population trends for this animal within  
9 Ontario.

10 A. That's correct.

11 Q. Now, that is the subject of this  
12 paper and particularly with regard to marten, you will  
13 notice -- is it Mr. or Dr. Thompson?

14 A. Dr. Thompson.

15 Q. Dr. Thompson discusses marten at  
16 pages 252 and 253.

17 A. Yes.

18 Q. And he indicates at page 253 - and I  
19 guess I will just read the paragraphs:

20 "It has long been known that alteration  
21 of mature forested habitats reduces  
22 marten populations..."

23 Throughout this paragraph are citations  
24 which I will read:

25 "...and loss of habitat is cited as a

1 major cause of extinction of marten from  
2 areas of its original range. Marten have  
3 been shown to avoid stands with less than  
4 30 per cent canopy closure in winter and  
5 open areas in general."

6 One publication:

7 "...showed that marten avoid small  
8 cut-overs during the first year after  
9 harvest. In Maine, Soutiere suggested  
10 that clearcuts up to 15 years old are  
11 poor habitat and that marten densities in  
12 these areas were about one-third that of  
13 mature forests. Partially cut stands  
14 (diameter limit to 40cm spruce and  
15 hardwood, 15cm balsam fir) were as well  
16 used as uncut areas. Many of these  
17 results were confirmed by Steventon and  
18 Major who also showed marten avoidance of  
19 clearcuts in winter, with some use in  
20 summer, particularly to feed on berries.  
21 The latter authors and Koehler and  
22 Hornocker observed that females avoided  
23 clearcuts and openings more than did  
24 males, and Hawley and Newby felt that  
25 large openings were psychological

1 barriers to marten. Thompson (unpub.  
2 data) found that marten densities were  
3 lower by 67-90 per cent (depending upon  
4 population levels) in logged areas up to  
5 40 years after logging than in uncut  
6 overmature sites near Manitowadage,  
7 Ontario. Home ranges in logged areas  
8 are significantly larger for both sexes  
9 compared with uncut areas...and the core  
10 areas or farther apart. Further, hunting  
11 success rates of marten are lower in  
12 naturally regenerating logged areas than  
13 in mature forest, indicating that these  
14 areas are sub-optimal habitats. Use of  
15 habitat may also be influenced by the  
16 number of deadfalls, leaning trees and  
17 amount of other debris because in winter  
18 these aid marten in gaining access below  
19 the snow. Lack of debris may be one  
20 cause of reduced use of successful stands  
21 by marten. Within logged areas marten  
22 forage in islands of residual timber with  
23 larger islands (25 ha) used most."

24 Q. So they are a species which prefers  
25 mature forest; is that not correct?

1 A. Yes.

2 Q. Now, on page 255, Dr. Thompson -- of  
3 the Forestry Chronicle article, Dr. Thompson discusses  
4 data gaps with regard to effects of logging on  
5 furbearers in general, and he mentions in the last  
6 paragraph of that column that:

7 "...although trapping records may suggest  
8 species are currently maintaining fairly  
9 stable populations (OMNR Statistics  
10 1986), there are a number of confounding  
11 factors that influence trapping success.  
12 For example, Thompson and Colgan showed  
13 that high trapping success on marten  
14 belied a population decline in the  
15 same year near Manitowadge, Ontario.  
16 Where a severe food shortage resulted in  
17 dispersal and an unusual capture rate of  
18 resident animals over what would be  
19 normally be expected."

20 And secondly he refers to the greater  
21 access by trappers to areas through all-terrain  
22 vehicles and:

23 "Third, increased management of forests  
24 by planting of conifers and the use of  
25 herbicides will drastically alter the



1 type of successional habitats compared  
2 with those for natural regeneration. The  
3 latter change will be gradual so that  
4 population changes will occur over  
5 approximately 50-100 years. Detection of  
6 these population changes through trapping  
7 records already influenced by trapping  
8 effort and stochastic or regular  
9 population events, may not be possible  
10 until substantial declines have  
11 occurred."

12 Now, is it true, Dr. Euler, that with  
13 regard to furbearers the Ministry of Natural Resources  
14 relies only on trapping returns as a measure of poor  
15 population?

16 A. No.

17 Q. What other inventories of these  
18 animals exist?

19 A. I don't think any. To the best of my  
20 knowledge, none. You can't take these -- as Dr.  
21 Thompson points out, you can't take trapping records on  
22 the one hand and lead to population estimation--

23 Q. Right.

24 A. --because it isn't an unbiased sample  
25 of the population.

1                   Q. So is it your estimate, going back to  
2 your species list, that furbearers in general, or that  
3 the population of furbearers in general is not being  
4 negatively impacted by timber management, and if that's  
5 your conclusion I would ask you on what data it is  
6 based?

7                   A. Well, yes, that's right. I mean, I  
8 can't conclude that. In fact, we included marten in  
9 our paper -- our featured species paper, as a species  
10 of concern because we don't have specific policies to  
11 deal with it.

12                  Marten is in the 30 per cent, and we are  
13 concerned about it and we are concerned about  
14 developing a procedure to deal with marten along --  
15 because marten really is one of these species that need  
16 the mature and older forest and also they need it in  
17 fairly large stands, and we have got to deal with that.

18                  Now, I can also say, though, that we  
19 don't have any evidence that marten populations are in  
20 trouble. So you can turn it around and look at it that  
21 way as well.

22                  Q. Well, what evidence do you have about  
23 marten populations one way or the other?

24                  A. Not very much, not very much at all.  
25 However, what would happen if the population had

1       undergone a drastic decline, we would hear from  
2       trappers and they would say something is wrong with the  
3       marten and we might not -- it's just like very  
4       analogous to the moose, people were saying:  Moose have  
5       declined percipitously and we didn't know why, but we  
6       did know they had declined.

7               So virtually everyone knew there was a  
8       decline and we heard it on every day that we went to  
9       work, people were saying:  There is a problem with  
10      moose.  And I think we would find that similar  
11      situation with marten.

12             But, as I have pointed out in my paper,  
13      there is a level of uncertainty about this because we  
14      don't have the kind of population data, this survey  
15      data that is different from the trapping record.  You  
16      see, it is very -- moose are different because you can  
17      fly over the landscape and you can count them and, for  
18      the same reason, you can't depend on the moose kill to  
19      tell you about the moose population--

20             Q.  All right.

21             A.  --you can't tell from the marten the  
22      trapping records only, you have to have some kind of  
23      independent observation.

24             Q.  And with regard to trapping records  
25      in addition to the factors that Dr. Thompson mentioned

1 in his papers, isn't there the additional factor that  
2 depending on the markets, fur trappers may focus on  
3 different species at different times?

4 A. That can happen, sure.

5 Q. Now, just in fairness to this  
6 question, I want to read into the record Thompson's  
7 conclusions about impact of logging on furbearers and  
8 this is at page 259:

9 "Boreal furbearers fall into four  
10 categories with respect to how logging  
11 alters their population:  
12 1) negative - marten and ermine;  
13 2) positive - lynx and red fox;  
14 3) potentially positive with  
15 directed management - beaver and perhaps  
16 secondarily, otter;  
17 4) little or no impact - muskrat, mink,  
18 and, in most cases, otter."

19 Now, if we can look at page 566 of Volume  
20 II, Dr. Euler, this is the -- is it Dr. Baker, again?

21 A. Yes, it is.

22 Q. Dr. Baker's classification of habitat  
23 for terrestrial vertebrates within forest management  
24 units in Ontario.

25 A. Yes.



1 Q. You have referred - just a question  
2 of context again - you have I think specifically  
3 several times referred to vertebrates and I think the  
4 listing of your species includes only vertebrates and  
5 it just says -- for the record, I take it that the  
6 Ministry does not have a policy particularly directed  
7 to the protection of invertebrates?

8 A. That's correct.

9 Q. All right. Now, first of all with  
10 regard to the Baker paper, I take it this  
11 classification was produced as information for this  
12 hearing; was it not?

13 A. Yes.

14 Q. And this is not a classification  
15 system that is in use in the district offices?

16 A. Well, the paper has been sent to the  
17 district offices. That has happened. Now, some of  
18 them would use it and some of them wouldn't. It  
19 doesn't -- they are not required to use it.

20 Q. Okay. And is it true that there  
21 isn't a -- biologists within the Ministry do not have  
22 access to the kind of functional and wildlife  
23 classification system similar to the eco-system, the  
24 forest eco-system classification system, that would  
25 allow them to equate habitat and wildlife for

1 management purposes?

2 A. That's correct.

3 Q. At page 576 of Dr. Baker's paper, it  
4 says: Discussion of the Importance of Mature and Old  
5 Growth Habitat.

6 A. Yes.

7 Q. I think you referred in your direct  
8 evidence to the fact that we don't have in Ontario  
9 forest species that attain seven and eight hundred  
10 years of age as do some of the species in British  
11 Columbia, for example?

12 A. That's right.

13 Q. Isn't it the fact that what  
14 constitutes old growth, that is the age involved,  
15 varies by species?

16 A. Yes.

17 Q. And that old growth black spruce  
18 would not be as old as old growth Douglas fir, for  
19 example?

20 A. Yes.

21 Q. But that with each species old growth  
22 represents a part of the continuum, shall we say, a  
23 segment of the biological diversity and habitat  
24 diversity?

25 A. Yes.

1 Q. And that we, therefore, need sections  
2 of old growth in order to have full representation of  
3 that biological diversity?

4 A. Yes.

5 Q. And you indicated earlier that MNR  
6 has not particularly surveyed spacially for these  
7 areas; agreed?

8 A. Yes. Well, at least not that I am  
9 aware of. The FRIs of course would have data on that.

10 Q. Do you think that some process of  
11 identification of these areas should be undertaken?

12 A. I think that would be very helpful,  
13 yes.

14 Q. And that then some segments of that  
15 old growth forest should have protection--

16 A. Yes.

17 Q. --from cutting?

18 A. Yes. Now, you realize that we do  
19 that to some extent, for example, in provincial parks  
20 now, so it isn't that the Ministry doesn't do any of  
21 that. It just should be part of any agency's normal  
22 management practice.

23 THE CHAIRMAN: Dr. Euler, where would the  
24 fact that the province does not cut large areas of the  
25 forest at all fit into the idea that there are areas of

1 old growth out there?

2                   Wouldn't you know exactly where there is  
3 one thing, but if you are only cutting a percentage of  
4 the total forest does it not follow that of what  
5 remains there is diversity in age-classes?

6                   DR. EULER: I think so, Mr. Chairman,  
7 yes. I think that is what has happened in Ontario, is  
8 we have some fairly substantial amounts of land that is  
9 in this mature to old growth segment just because of  
10 the way cutting has occurred.

11                   And in that exhibit called Forest  
12 Resources, it outlines those age-classes. In some  
13 cases it is up in the 30 per cent range, I think.

14                   MS. SWENARCHUK: Q. Are you expecting  
15 that those segments will remain uncut?

16                   DR. EULER: A. Yes. I think we saw from  
17 the evidence of Mr. Greenwood that there will be  
18 substantial areas of older forest for some time in the  
19 future just because there is no way that all of that  
20 forest can be cut. Now, that's my understanding of the  
21 evidence.

22                   Q. Let me clarify your position then.  
23 Are you satisfied with that in itself, or do you think  
24 there should be initiatives taken to ensure that some  
25 old growth remains?



1                   A. I think we should take initiatives to  
2 ensure that it remains.

3                   Q. Is anything planned in this area in  
4 the Ministry?

5                   A. Well, we are certainly planning to  
6 monitor those species that are tied into this older  
7 forest and that will be the first warning signals of a  
8 problem.

9                   We will start a monitoring program right  
10 now when there isn't a problem and continue that  
11 monitoring program, so that when a problem begins to  
12 occur we can identify it right away.

13                  Q. This is part of the monitoring  
14 initiatives which are now being put together; is that  
15 correct?

16                  A. That's correct, yes.

17                  Q. Specifically orientated towards old  
18 growth species?

19                  A. Well, let's call it mature and older  
20 forest because in Ontario we don't have evidence that  
21 they are obligatant to old growth.

22                  Q. Right. They can also live in mature  
23 forest?

24                  A. Yes, that's our best understanding  
25 at this point in time.

1 Q. Can we turn now to the Interim  
2 Direction for Application of Timber Management  
3 Guidelines for Provision of Moose Habitat which is  
4 Exhibit 489?

5 A. Yes, I will just have to find it  
6 here.

7 Q. And the draft training messages  
8 accompanying it which is 492?

9 A. Yes. That's 489 and 492?

10 Q. Yes.

11 A. Yes, okay, I have that.

12 MS. SWENARCHUK: Mr. Chairman, how late  
13 did you propose to sit today?

14 THE CHAIRMAN: Probably until five.

15 MS. SWENARCHUK: Q. Dr. Euler, who was  
16 the principal author of the Interim Direction?

17 DR. EULER: A. Well, this broth was  
18 conceived by many cooks, but I guess John Kednrick  
19 would be the most senior cook.

20 Q. All right.

21 THE CHAIRMAN: Who was the under-chef,  
22 you?

23 DR. EULER: I was a pretty far under-chef  
24 on this, I am afraid.

25 MS. SWENARCHUK: Q. I did want to know

1 who are the other individuals involved?

2 DR. EULER: A. Mr. Kendrick talked to a  
3 great many people in the Ministry preparing this. He  
4 had meetings all over this province, he had lengthy  
5 debates and discussions. I don't think anyone can list  
6 all of the people involved, I really don't.

7 He presented this to various groups,  
8 senior and junior, and there was extensive discussion  
9 about it, and I was involved in those discussions late  
10 at night, early in the morning and even on the weekend  
11 occasionally.

12 Q. In what time period was this  
13 occurring?

14 A. Well, not very long ago. Within the  
15 last, what, month and a half, two months or something,  
16 let's say two months.

17 Q. Now, is this direction a response to  
18 industry complaints about limits on clearcut size?

19 A. No, I don't think so.

20 Q. Have there been industry complaints  
21 about the limits within the moose guidelines?

22 A. Yes. Yes, there has.

23 Q. But this was not a response to their  
24 complaints?

25 A. Well, not to my knowledge, no. I

1 wouldn't -- I don't think so.

2 MRS. KOVEN: You said last week, Dr.  
3 Euler, that one of the signs that it was time to go  
4 back to the original guidelines is when the industry  
5 stopped complaining.

6 DR. EULER: Yes, I think I said that, but  
7 I didn't necessarily mean about clearcut size, I meant  
8 about application of the guidelines in general because  
9 there were certainly aspects of the guidelines other  
10 than clearcut size.

11 MS. SWENARCHUK: Q. What are the aspects  
12 on which you received complaints from industry?

13 DR. EULER: A. Well, more specific  
14 complaints. For example, let's say for some reason a  
15 biologist wants to reserve a particular area that has a  
16 certain specific value to wildlife, maybe a moose lick,  
17 say, occasionally an industry person would complain  
18 about that. I mean, they are only human, you can't --  
19 don't let this seem more than it is. I mean, we have  
20 vigorous discussions on these matters all the time and  
21 I don't see this as anything untoward.

22 Q. Well, my question really is this, Dr.  
23 Euler: If all that is really necessary is a better  
24 explanation of how the moose guidelines should be  
25 implemented; in other words, an educational approach,



1       why institute an interim policy which doubles what we  
2       using as a maximum clearcut size - and let's remember  
3       the guidelines talked about clearcuts from 80 to 130  
4       hectares - the 80 certainly seems to have disappeared,  
5       and we are talking about 130 and turned it into 260.

6               If all we need was education, why have an  
7       interim policy of doubling the clearcut size, why not  
8       just an educational blitz?

9               A. Well, the guidelines -- this does  
10      more than just educate, the intent is more than just an  
11      education here.

12              Education is a key part of it, no  
13      question about that, but there is another purpose and  
14      that is to bring in the bounds of flexibility in  
15      application of the guidelines.

16              Because, remember, as we talked about the  
17      guidelines, the position that the Ministry has had for  
18      a number of years is unlimited flexibility; that is,  
19      depending on the circumstances, while it was observed  
20      that not every person employed by the Ministry always  
21      applied these guidelines with the same understanding,  
22      with the common understanding of flexibility.

23              So the senior people in the Ministry felt  
24      that there should be some limits put on that  
25      flexibility and that is the underlying message here

1 other than just education.

2 Q. And how does the policy put that  
3 limit on flexibility exactly?

4 A. Well, you see, before if you as a  
5 practising biologist or forester wanted to exceed the  
6 guidelines, you could do so without quite as stringent  
7 a reporting requirement as what is now there.

8 Q. But that was exceeding them at the  
9 130 hectares and the reporting now only occurs at  
10 exceedances over 260?

11 A. The formal report, yes, that's  
12 correct.

13 Q. I don't see that as limiting  
14 discretion, I see it as increasing it, increasing the  
15 discretion to exceed the original moose guideline  
16 limits?

17 A. Well, that's perhaps your  
18 interpretation. The big difference is that more  
19 writing of the reasons has to occur before -- when the  
20 guidelines were exceeded, they were not obliged to  
21 write this down and you could exceed those guidelines  
22 before without writing it down, you just had to get  
23 approval of the supervisory structure.

24 Now, it has got to be written into the  
25 prescriptions and if it goes beyond a certain point,

1 then the ADM has to be informed and aware of it. So it  
2 is going to make it more difficult to have clearcuts  
3 that are very large over very large areas.

4 Q. But the reporting mechanism only  
5 kicks in at double the original limits?

6 A. That's correct.

7 Q. Right?

8 A. You also have to remember that that  
9 130 hectares was not something that people exceeded  
10 sort of at their peril. They did exceed it when, in  
11 their judgment, they were in a circumstance that it was  
12 acceptable to exceed it.

13 Q. And were these exceedances common?  
14 Is Mr. Oldford nodding?

15 MR. OLDFORD: A. Writing.

16 Q. Fine, go ahead.

17 DR. EULER: A. I don't know, they  
18 certainly occurred. It is hard to -- yes, I would say  
19 common, but it is very hard to for me to judge when I  
20 think of all the times when I went across the province,  
21 it wasn't a clearcut in excess of that was not all that  
22 unusual, but at the same time they weren't everywhere.

23 So that's a hard question to answer. The  
24 bigger problem was, you see, was the inconsistency in  
25 application where --

1 Q. How is this going to make the  
2 application more consistent?

3 A. By reducing the bounds of  
4 flexibility.

5 Q. If it indeed reduces the bounds of  
6 flexibility.

7 THE CHAIRMAN: I think you have received  
8 a point where you are both interpreting it slightly  
9 different.

10 MS. SWENARCHUK: Yes, we will agree to  
11 disagree.

12 THE CHAIRMAN: We will try to draw the  
13 conclusion from both of you.

14 MS. SWENARCHUK: Q. I want to take a  
15 look at the actual educational tool with you, but first  
16 of all I want to know from Dr. Allin whether any  
17 similar type of interim or interpretative policy is  
18 planned for the fisheries guidelines?

19 DR. ALLIN: A. No.

20 Q. I see there is a component of the  
21 educational program -- package, rather, that pertains  
22 to the fisheries guidelines. What about an overall  
23 policy?

24 A. There is nothing comparable to what  
25 Dr. Euler has spoken about with respect to moose. The



1 training messages that relates to protection of fish  
2 habitat are really points of clarification, questions  
3 that have been raised by primarily field staff about  
4 interpretation of guidelines and their use.

5 Q. Now, that I can agree with. Can we  
6 look at the training package then which is Exhibit 492.

7 DR. EULER: A. Yes.

8 Q. At page -- there are two pages  
9 involved here numbered separately. The first page is  
10 moose, which is numbered up to page 15, and then a  
11 second package starts after that on fish. We have a  
12 new numbering system.

13 A. Yes.

14 Q. So looking at page 5 of the moose  
15 section, the issue here has to do with loss of wood  
16 fiber and that companies view the Moose Habitat  
17 Guidelines as resulting in a major loss of wood. Now,  
18 to your knowledge, Dr. Euler, is this a widespread  
19 opinion that has been expressed by companies?

20 A. See, I really have trouble with that  
21 kind of concept. I know of some cases where companies  
22 are very concerned. I guess I would not characterize  
23 that as widespread. At the same time, some companies  
24 are very concerned.

25 Q. The last sentence of the response

1 indicates that:

2 "A significant portion of present loss is  
3 largely the result of an unwillingness to  
4 leave economically viable volumes which  
5 would warrant a return cut."

6 Now, is the interim policy going to  
7 affect that problem at all?

8 A. I really don't know. I mean, this  
9 is -- I just don't know. We are in the middle of  
10 developing this and I just don't know.

11 Q. Okay. At page 8, the title of that  
12 page is Moose Targets, and the comment is that:

13 "The application of guidelines is largely  
14 driven by the moose targets which are now  
15 nine years old....the effects of harvest  
16 control are not as well known and there  
17 is a recommendation that the Ministry  
18 undertake a review of more moose targets  
19 as soon as possible, and the  
20 review should include a recommended  
21 redistribution if necessary."

22 Now, has this review been undergone at  
23 this time?

24 A. It has not formally been undertaken,  
25 but many of our district biologists are asking

1 themselves that question in trying to prepare answers,  
2 so that when and if this review is undertaken they will  
3 be ready.

4 Q. Are you saying --

5 MR. MARTEL: Pardon me. Have you reached  
6 the policy level though as of yet that you have  
7 targeted?

8 DR. EULER: No, we haven't. The target  
9 is 160,000 moose and the population is about 120. Now,  
10 the problem is we set these nine years ago and now in  
11 retrospect we found that some areas can produce a  
12 little bit more than we thought, some areas a little  
13 bit less.

14 So what this response is, we should go  
15 back and review that again and we may just have to do a  
16 little bit of juggling of the targets to keep the  
17 overall targets the same, but some units may be able to  
18 produce a few more, some a few less.

19 MS. SWENARCHUK: Q. So at this point you  
20 don't see -- I am sorry, I didn't entirely hear your  
21 response. You are expecting the target overall to be  
22 increased or decreased?

23 DR. EULER: A. Well, at this point I  
24 just don't know.

25 Q. Aren't the District Land Use

1 Guidelines being revised in some districts now?

2 A. Yes, I understand that that process  
3 is underway.

4 Q. And that could involve re-examination  
5 of the wildlife targets?

6 A. Absolutely, yes, that's right. In  
7 light of current evidence, maybe some changes are  
8 necessary.

9 Q. And at page 10--

10 A. Yes.

11 Q. --the title is retroactivity?

12 A. Yes.

13 Q. And in the response section, there is  
14 a statement that says:

15 "The Ministry will not retroactively  
16 amend approved plans in order to  
17 implement the management aspects of the  
18 guidelines."

19 Can you tell us -- so presumably the  
20 guidelines are only being implemented in the plans that  
21 are being developed now?

22 A. Yes.

23 Q. And can you tell us approximately in  
24 what proportion of the province that is occurring, what  
25 proportion of the area of the undertaking?



1                   A. The moose guidelines have been  
2 applied for a number of years, so they are applied  
3 virtually over all of the area of the undertaking in  
4 aggregate.

5                   Now, at the present time we are doing  
6 plans in some portion but that doesn't mean that the  
7 guidelines were not applied when the previous plans  
8 were made. And I don't know what proportion of the  
9 area of the undertaking is currently under an active  
10 planning process. Maybe some of the foresters can help  
11 with that.

12                  Q. A large proportion, I would say, from  
13 the numbers crossing my desk.

14                  Mr. Hynard?

15                  MR. HYNARD: A. Well, plans last five  
16 years so, on average, 20 per cent of the plans are  
17 being renewed each year. The back of the Timber  
18 Management Planning Manual lists those plans that are  
19 due in 1990. Those are the ones that are presently  
20 under preparation.

21                  Q. Well, Dr. Euler, getting back to page  
22 10, the issue is that some districts have introduced  
23 major amendments to previously approved timber  
24 management plans specifically to incorporate the  
25 subsequently approved guidelines.

1                               Now, were there previous guidelines to  
2 these?

3                               DR. EULER: A. Yes, we have had moose  
4 guidelines for eight or nine years.

5                               Q. So when you say moose guidelines for  
6 a long time, you are talking about previous versions,  
7 so presumably to some districts amendment to the plans  
8 have been made to incorporate these. Is that what this  
9 means?

10                              A. That would be my interpretation of  
11 that, yes.

12                              Q. Dr. Allin, if we can look at page 3  
13 of the fish guidelines. Essentially the issue being  
14 addressed here is that many companies and districts are  
15 encouraging a 60 or 90-metre donut approach rather than  
16 the 30, 70 and 90 retentions in the fisheries  
17 guidelines. Do you have any idea how prevalent that  
18 practice is?

19                              DR. ALLIN: A. No, I could not be  
20 specific about that.

21                              Q. Have you heard about that practice?

22                              A. Yes, I have heard that some districts  
23 have preferred to go with 30, 60, 90. There is no  
24 reference there to 30, but the cases that I have heard  
25 about, they preferred a sort of three-category system

1 of 30, 70, 90, rather than 30, 50, 70 and 90.

2 So the advice -- that's why the question  
3 was raised and why the advice given here was: Well, if  
4 you are going to go to three categories make sure that  
5 it is on the conservative side; in other words, you go  
6 to 30, 70 and 90.

7 MR. MARTEL: Is that intended to have in  
8 some areas a wider than 90 if need be on a slope or the  
9 skyline effect that we have heard about?

10 DR. ALLIN: Sorry, are you asking whether  
11 there will be any reason to have larger than 90-metre  
12 reserves?

13 MR. MARTEL: Or is it just one -- a  
14 request to go back to the old donut approach which was  
15 bigger than that on every lake?

16 DR. ALLIN: No, that is the approach that  
17 we were trying to move away from here, the donut  
18 approach. The 90-metre reserve is required with a  
19 pretty steep slope.

20 MR. MARTEL: Okay.

21 DR. ALLIN: That actually isn't found all  
22 that commonly in Ontario, at least where timber  
23 management would be carried out.

24 I should perhaps add, Mr. Martel, that  
25 much larger reserves than that might be required for

1 other purposes and you mentioned the skyline reserve  
2 and that would be a case of that.

3 MS. SWENARCHUK: Q. Could I just ask,  
4 Dr. Euler, when Mr. McNicol's new position was  
5 established?

6 DR. EULER: A. Very recently, a matter  
7 of weeks.

8 MS. SWENARCHUK: Can I just have a  
9 moment, Mr. Chairman?

10 THE CHAIRMAN: Perhaps, Mr. Freidin, you  
11 might confirm with Mr. McNicol, since he is in the  
12 room, exactly when it was?

13 MR. McNICOL: Monday last.

14 MR. FREIDIN: Monday last.

15 THE CHAIRMAN: Very recent.

16 MR. FREIDIN: He had so little time in  
17 Thunder Bay he thought he would perhaps take a break  
18 and be here for a few hours.

19 MS. SWENARCHUK: Those are my questions,  
20 Mr. Chairman.

21 THE CHAIRMAN: Thank you. You are  
22 finished with this panel, then?

23 MS. SWENARCHUK: (Nodding affirmatively)

24 THE CHAIRMAN: Thank you.

25 Well, I don't think we will start with



1 other counsel this afternoon. So we will start  
2 tomorrow at 9:00 a.m.

3 And I believe Mr. Colborne hopefully will  
4 be ready to start tomorrow morning.

5 MR. TUER: I may have a few questions,  
6 Mr. Chairman, on Exhibit 492.

7 THE CHAIRMAN: All right. We can  
8 certainly accommodate that, Mr. Tuer, first thing in  
9 the morning.

10 MR. TUER: I won't be long.

11 THE CHAIRMAN: Very well. Thank you.

12 We will adjourn until 9:00 a.m.

13 ---Whereupon the hearing adjourned at 4:40 p.m., to be  
14 reconvened on Tuesday, April 11th, 1989, commencing  
at 9:00 a.m.

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